THE LEGISLATIVE ACTS

OF THE

GOVERNOR GENERAL OF INDIA

IN COUNCIL,

FROM 1834 TO THE END OF 1867;

WITH

AN ANALYTICAL ABSTRACT PREFIXED TO EACH ACT; TABLE OF CONTENTS AND INDEX TO EACH VOLUME; THE LETTERS PATENT OF THE HIGH COURTS, AND ACTS OF PARLIAMENT AUTHORIZING THEM.

(TO BE CONTINUED ANNUALLY.)

VOL. IV.

1862—1865.

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ERRATA.

Page 217, line 11—Section *CLXIII.* should be *CLXXIII.*

Page 289, line 22—*If* the order should be *of* the order.

Page 337—Section *XLIII.* should be *XLVIII.*

Page 692, line 7—Act *XXVIII.*, 1862, ss. 47, 48, 49, 50, 51, 52, should be Act *XVIII.*, 1862.

Page 769—Act *XXII.* at top of page at left hand side should be Act *XIII.*

THE

LEGISLATIVE ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

FOREIGNERS.

ACT No. I. OF 1862.

[*Received the assent of the G. G. on the* 13*th Feb.*, 1862.

Recites expediency of reviving and continuing Act XXXIII, 1857.

Enacts that Act XXXIII., 1857, shall be revived and continued for 2 years from the 5th December, 1861.

An Act to revive and continue in force for a further period Act XXXIII. of 1857 (to make further provision relating to Foreigners).

Expired.

DUTIES ON ARTS, TRADES, AND PROFESSIONS.

ACT No. II. OF 1862.

[*Received the assent of the G. G. on the* 27*th Feb.*, 1862.

Recites that those duties may be equitably adopted into the financial system, but are not now required.

Repeals Act XVIII, 1861, except so far as it repeals Madras Regulations.

An Act to repeal Act XVIII. of 1861 (for imposing a Duty on Arts, Trades, and Dealings).

Preamble

Whereas the Governor General in Council has determined that, although the Duties imposed on Arts, Trades, and Dealings by Act XVIII. of 1861, may be equitably adopted as a part of the Financial system of

India. whenever the exigencies of the State may render it necessary, the said duties are not now required for the purposes of the Government of India, and may be dispensed with, it is enacted as follows:

Act XVIII. of 1861 repealed.

Act XVIII. of 1861 is hereby repealed, except so far as it repeals the Regulations and the parts of Regulations of the Madras Code therein mentioned.

THE GOVERNMENT SEAL.

Act No. III. of 1862.

[*Received the assent of the G. G. on the 28th Feb.*, 1862.

Recites expediency of adapting the law relating to the use of a Government Seal to the present form of Government.

Provides for the use of Seals where required by law in lieu of the old Seal of the E. I. Co.

An Act to amend the law relating to the use of a Government Seal.

Preamble.

Whereas it is expedient to adapt the law relating to the use of a Government Seal to the present form of the Government in India, it is enacted as follows:

What Seal to be used instead of the Seal of the East India Company.

Whenever it is required by any Regulation of a Local Government or by any Act of the Governor General of India in Council, that the Seal of the East India Company shall be affixed on behalf or by the authority of the Government to any Instrument or document, it shall be lawful, if the Seal is to be affixed on behalf or by the authority of a Local Government, to affix in lieu of the Seal of the East India Company a Seal bearing the designation of such Local Government, or if the Seal is to be affixed on behalf or by the authority of the Government of India, a Seal bearing the inscription "Government of India;" and such Instrument or document so sealed shall to all intents and purposes be as valid and effectual as if the Seal so used had been that of the East India Company.

BANK OF BENGAL.

ACT No. IV. OF 1862.

[*Received the assent of the G. G. on the 28th Feb.*, 1862.

Recites that twelve months' notice has been given to the Bank to modify its power to issue Promissory Notes, and recites the expediency of modifying the Bank Acts.

1. Repeals Act VI., 1839, except in its repealing provisions, &c., and repeals Acts XXI., 1854; and XXVII., 1855, so far as they relate to the Bank of Bengal.

2—4. Continues the shareholders, &c., of the Bank of Bengal as a corporation aggregate; and (3) continues in the corporation all existing and future properties; (4) with power to sue and be sued, &c., by its corporate name.

5, 6. Continues the capital of the Bank, but divides it into 10,700 shares of 1,000 rupees each, subject to be increased; (6) by the Directors from time to time, and in such manner of subscription as they may think proper, and to an amount not exceeding 30,000 shares of 1,000 rupees each.

7—9. Entitles shareholders to surrender their shares and have consolidated stock instead; and (8) makes consolidated stock transferable in amounts not less than 250 rupees; (9) the shares to be represented by certificates and the stock by receipts of the Directors, either for portions or the whole of the proprietor's stock.

10. Bank stock to be personal estate.

11. Makes Shares transferable by endorsement; and consolidated stock by deed of transfer, &c., but transfer not to be effectual till registered, and registration noted on certificate, &c., and all transfers to be liable to stamp duty.

12. Registered shareholders alone to be members of the body corporate, and Bank not to be bound, &c., by trusts, and joint proprietors to hold as joint tenants with benefit of survivorship The Secretary of State for India in Council to be the proprietor of shares held by the Government of India.

13—15. The business of the Bank to be managed by nine Directors, of whom three shall be appointed and removeable by the Government, and the remaining six by the shareholders; (14) the present Directors to continue; and (15) two of the elected Directors to go out annually, &c., by rotation, and be re-eligible.

16. Directors to have not less than 12,000 rupees capital stock, and not to be Director or officially connected with any other Bank; and no two persons of same firm, &c., to be Directors at the same time.

17—21. In case of death, resignation, or absence for three months from Calcutta, or disqualification of any elected Directors, a special general meeting shall be called, &c., to elect a new Director, &c.; who (18) shall be elected by the majority of shareholders, &c.; (19) voting according to prescribed scale, no one being entitled to more than 7 votes, and in case of joint proprietors, the

one first named on the register to give the vote; and (20) the Governor General in Council to vote by proxy signed by Secretary; and (21) proprietors by general or special proxy.

22. Directors to choose a President at first meeting every year, and in his absence the Senior Director to be Vice-President.

23. Authorizes the Treasurer and Secretary or Deputy Secretary to endorse and transfer all kinds of securities held by the Bank, to draw, &c., Bills of Exchange, &c., in the authorized business of the Bank, and to sign receipts, &c., connected with Bank business.

24. The Bank seal not to be affixed except in presence of three Directors, who shall sign to authenticate the sealing, &c.

25. Empowers the Directors to appoint the necessary establishment of officers, &c., and to remove them, and fix their salaries.

26. Prohibits Secretary and Treasurer, Deputy Secretary, Head Accountant and Khazanchee from engaging in any kind of commercial business, or acting as broker or agent, &c, and those officers to give security, that of the Secretary being for not less than 50,000 Rupees.

27, 28.—The business of the Bank shall be lending on specified securities, &c.; drawing, &c., Bills payable in India only; granting Post Bills; buying &c., bullion; making investments in specified securities; opening cash accounts, &c., money agency; and realizing pledged securities; and besides (28) drawing, &c., Bills, &c., payable out of India for constituents in the Agency Department, and buying Bills to meet such drafts.

29. Authorizes the Bank to take over the business of the Government Treasury, &c.; to manage the issues, &c., of the Paper currency, and to settle the terms with the Government.

30. Prohibits loans on its own shares and stock, and on mortgage of lands and any immoveable property.

31. Bank books to be balanced on the 30th June and 31st December; balance sheet to be signed by a majority of the Directors, and sent to Government of India, &c.

32. An account of profits to be taken on 1st January and 1st July, and dividend to be declared on basis of actual profits, out of which a reserve may be made.

33, 34. General meeting of proprietors to take place on 1st Monday in August every year; at which the Directors shall submit a statement of the affairs; and (34) an auditor may be elected.

35. Special General Meeting may be called by any three Directors or ten Proprietors, on giving fifteen days' notice of purpose.

36. Empowers Directors to establish Branch Banks, and necessary establishments of officers, &c., and to make regulations, &c., not inconsistent with this Act or the Bye-Laws, &c.

37. Empowers the Bank to purchase, &c., the capital, &c., of any other Joint-Stock Bank in India, and to allot, &c., the capital stock among the

shareholders of such Bank, and for that purpose to create new Bank stock; the new shareholders to come in on footing of the old shareholders, &c.

38. Entitles Bank to withhold dividends from shareholders indebted to it, and after demand and default of payment to sell shares belonging to the debtor as his own, in satisfaction of debt to Bank, under specified condition.

39. In case of death of proprietor, Bank not bound to recognize representatives without probate or letters of administration.

40. Empowers the Directors to make, rescind, &c., bye-laws, &c., to be approved by Government of India.

41, 42. Interpretation clause; and (42) Act to come into operation from 1st March, 1862.

An Act for regulating the Bank of Bengal.

Preamble.

Whereas the Governor General of India in Council has, pursuant to the provisions of Act VI., of 1839 (*relating to the Bank of Bengal*), given twelve months' due notice to the Bank of Bengal that the provisions of the said Act, as regards the power of the Bank to issue Promissory Notes under Section XXXI. of that Act, would be modified as hereinafter appears, and it is expedient that the provisions of the said Act and of Act XXI. of 1854 (*to amend the Law relating to the several Banks of Bengal, Madras, and Bombay*), and of Act XXVII. of 1855 (*to enable the Banks of Bengal, Madras, and Bombay to transact certain business in respect of Government Securities and Shares in the said Banks*), as regards the said Bank of Bengal should be re-enacted with certain amendments and modifications hereafter contained, it is hereby enacted as follows:

Repeal of Act VI. of 1839, and Acts XXI of 1854, and XXVII of 1855, so far as they relate to the Bank of Bengal.

I. Act VI. of 1839, except in so far as it repeals any prior Charter, Regulation, or Act, and except as to any act or offence done or committed, or any liability incurred before this Act shall come into operation, and Acts XXI. of 1854, and XXVII. of 1855, so far as they severally relate to the Bank of Bengal, are repealed from and after the coming into operation of this Act.

Present Corporation continued.

II. From and after the coming into operation of this Act, and notwithstanding the repeal of the said Act VI. of 1839, the present and future Proprietors of the capital stock of the Bank of Bengal shall continue to be a body corporate by the name of the Bank of

Bengal with perpetual succession, and shall continue to possess and enjoy all the rights, privileges, and immunities incident by law to a corporation aggregate.

Property of the Bank.

III. All property and securities for property, claims and demands whatsoever, now vested in or held by the said Bank of Bengal under and by virtue of the said Act VI. of 1839, shall, from and after the coming into operation of this Act, be vested and continued in the said Bank of Bengal as and being a body corporate under and by virtue of this Act as aforesaid, and the said Bank of Bengal, as such body corporate, shall be subject to all debts, demands, claims, and liabilities outstanding against the said Bank at the time of this Act so coming into operation, and no suit or proceeding at law or in equity then pending shall cease or abate in consequence of the repeal of the said Act VI. of 1839, or of the continuance of the said Bank by virtue of this Act.

Bank may sue and be sued by corporate name, and hold and transfer property.

IV. The said Bank so continued as aforesaid shall and may sue and be sued by its corporate name aforesaid, and shall and may have and use such common seal as the Directors of the said Bank shall from time to time appoint, and shall be competent as such body corporate to acquire and hold, either absolutely or conditionally for a term or in perpetuity, any description of property whatever, and to transfer and convey the same.

Capital of the Bank.

V. The existing capital of the said Bank now consisting of 2,675 shares of Co.'s Rs. 4,000 each, divisible into half and quarter shares, shall continue to be the capital of the said Bank, but shall from and after the coming into operation of this Act consist of 10,700 shares of Rupees 1,000 each, divisible into half and quarter shares, and such capital shall be subject to such increase as next hereinafter mentioned.

Increase of capital.

VI. It shall be lawful for the Directors of the said Bank for the time being, from time to time, as and when they shall deem it expedient so to do, and on such previous notification as they may deem sufficient in that behalf to increase the said capital, and for that purpose to make such orders and directions for the opening of subscriptions towards such increase of capital by the Proprietors

of the Bank for the time being as to them may seem fit, and also to allow to the said Proprietors such period to fill up the subscription as to them the said Directors shall seem meet, and also to prescribe in what manner and form the said Proprietors shall subscribe and pay into the said Bank the proportions of new capital which such Proprietors may respectively desire to subscribe, and also to make such orders and directions as to them the said Directors may seem fit, for the disposal and allotment of the amount of new capital that may not be subscribed for and paid up by Proprietors for the time being, in the manner and form so prescribed. Provided always that the capital of the said Bank including any increase therein that may be made under Section XXXVII. of this Act, shall not in the whole exceed 30,000 shares of 1,000 Rupees each.

Consolidated stock.

VII. It shall be lawful for any Proprietor of any 1,000 Rupees share or shares or of any half or quarter share or shares in the existing capital, or in the new capital so to be created as aforesaid, at any time and from time to time to surrender such share or shares or half or quarter share or shares or any of them to the Directors of the Bank for the time being, and to demand and receive from the Bank, in lieu thereof, consolidated stock to the like amount as represented by the share or shares or half or quarter share or shares so surrendered, and in like manner any Proprietor or other person subscribing for any portion of the new or increased capital under the provisions hereinbefore contained, may at his option subscribe for shares or for consolidated stock or partly for shares and partly for stock.

Consolidated stock how transferable.

VIII. The consolidated stock aforesaid shall be transferable (subject to the provisions hereinafter contained with respect to transfers) in any amount or sum not less than 250 Rupees, and the holder of any share or shares or half or quarter shares or share or of any consolidated stock, shall be a Proprietor of and interested in the capital of the Bank to the extent of the amount of the shares or half or quarter shares or stock so held by him.

Certificates of shares and receipts for stock.

IX. A certificate signed by three Directors of the said Bank shall be delivered to the Proprietor of any share or half or quarter shares of the capital

of the said Bank, upon demand made by such Proprietor, and any Proprietor of more than one such share or half or quarter share, may at his option demand a certificate for each or one certificate for all his shares, and a receipt shall in like manner on demand be delivered to the Proprietor of any stock, and any Proprietor of stock may at his option demand one receipt for the whole of the stock or separate receipts for any portions of the stock so held by him.

Shares and stock to be deemed personal estate.

X. The proportion of the capital of the said Bank held by any Proprietor, whether held as shares or as consolidated stock, shall be of the nature of personal estate of such Proprietor.

Transfer of shares and stock.

XI. Shares in the capital shall be transferable by indorsement to be made on the certificates thereof respectively, under the hand of the Proprietor or his Attorney duly authorised, which endorsement shall specify the name of the person or persons to whom the said transfer shall be made, and consolidated stock shall be transferable by a deed of transfer executed by the Proprietor or his duly authorised Attorney, and in the form set forth in Schedule A hereto annexed. Provided always that no endorsement of a share, certificate, or deed of transfer of stock shall be effectual to transfer any interest in the share or stock until such endorsement or deed of transfer shall have been registered at the Bank of Bengal, and such registration shall have been noted on such endorsement or deed of transfer under the hand of an Officer appointed for that purpose by the Directors of the said Bank. Provided also that every transfer of shares or stock by endorsement or deed of transfer as aforesaid shall be liable to Stamp Duty as a transfer of shares under Clause XIX., of the Schedule A to Act XXXVI. of 1860, or any future Act imposing a Stamp Duty on transfer of shares. [Schedule A has been supplied by Act VI., 1862.]

Corporation to consist of registered proprietors only.

XII. The registered Proprietors for the time being of the shares and stock into which the capital of the said Bank shall be divided, and no other person, shall be members of the body corporate hereby continued, and the Bank shall not be bound or affected by notice of any trust to which any share or stock may be subject in the hands of the registered Proprietor thereof; and when any

share or stock is vested in more than one registered Proprietor, such Proprietors shall as between themselves and the Bank, be considered as joint tenants with benefit of survivorship. The shares and stock registered in the name of the Governor General in Council shall be deemed to belong to the Secretary of State for India in Council.

Directors.

XIII. The business of the said Bank shall be managed by nine Directors, of whom (so long as the Government of India shall hold shares or stock in the said Bank, or so long as any such arrangement or agreement with the Government as in Section XXIX. of this Act mentioned, which has been already entered into or shall hereafter be entered into, shall remain in force), three shall be appointed and removeable by the Governor General of India in Council, and the remaining Directors, and in case the Government shall cease to hold shares or stock in the said Bank, and no such arrangement or agreement as aforesaid shall remain in force, all the Directors shall be elected and be removeable by vote of a general meeting of the Proprietors.

Present Directors to be continued.

XIV. The persons who at the time of this Act coming into operation shall be Directors of the said Bank, shall continue to be Directors of the said Bank, subject to removal as aforesaid, and to the provisions hereinafter contained.

Two of the elective Directors to go out by rotation annually.

XV. Two of the six Directors elected and to be elected by the said Proprietors shall in rotation go out of office on the second Monday in the month of December in every year, on which day a General Meeting of Proprietors shall be held for the election of two Directors in their stead. Provided always that any Directors going out by rotation as aforesaid shall not be re-eligible at the election which takes place thereupon. Provided also that the rotation existing at the time of this Act coming into operation shall continue to be observed.

Disqualifications to serve as an elective Director.

XVI. *Clause* 1.—No person shall be eligible or qualified to serve as a Director by election of the Proprietors, who shall not be a Proprietor, in his own right and unencumbered, of shares or stock to the amount of twelve thousand Rupees at the least of

the capital of the said Bank, or who shall be a Director or Agent or Manager of any other Bank or Branch Bank within the Town or Suburbs of Calcutta, or who shall be a partner of or managing agent for or shall hold a power of procuration from any such Director, Agent, or Manager.

No two partners, &c., of the same firm to serve as Directors at the same time.

Clause 2.—No two persons who shall be partners of the same mercantile firm, or one of whom shall be the general agent of, or shall hold a power of procuration from, a mercantile firm of which the other is a partner, shall be eligible or qualified to serve as Directors at the same time.

Vacancies among the elective Directors how to be filled up.

XVII. In case of the death, resignation, or absence from Calcutta for more than three calendar months, or disqualification under the preceding Section, or removal as aforesaid of any Director elected or to be elected by the said Proprietors, the other Directors shall, within fifteen days after such death, removal or resignation, call a special general meeting of the Proprietors for the purpose of choosing a successor to the Director so dead, resigned, absent, disqualified, or removed, and such successor shall come into the same place in the rotation above-mentioned, in which the deceased, removed, absent, or disqualified Director was.

At General Meetings all matters to be decided by a majority of votes.

XVIII. At general meetings of Proprietors, whether ordinary or special, every election and other matter submitted to the meeting shall be decided by a majority of votes, and no person shall be allowed to vote at any such meeting in respect of any share or stock acquired by transfer, unless such transfer shall have been completed and registered six months at the least before the time of such meeting.

Scale of votes.

XIX. At all such general meetings, the Proprietors shall vote according to the following scale:—

4 Shares of Rupees 1,000 each, or consolidated stock amounting to 4,000, shall entitle to				...	1 Vote.
20 Shares,	or	consolidated stock,	do., Rs.	20,000	2 Votes.
40 ,,		ditto	do., ,,	40,000	3 ,,
60 ,,		ditto	do., ,,	60,000	4 ,,
80 ,,		ditto	do., ,,	80,000	5 ,,
120 ,,		ditto	do., ,,	120,000	6 ,,
160 ,,		ditto	do., ,,	160,000	7 ,,

and no Proprietor shall be entitled to more than seven votes. Provided also that when any share or stock shall be held by joint registered Proprietors, the Proprietor whose name shall appear first in the Register as one of the holders of such share or stock, shall alone be entitled to vote in respect thereof, and to receive notices as if he were sole Proprietor thereof.

Government proxy.

XX. It shall be lawful for the Governor General of India in Council (so long as the Government shall hold shares or stock in the said Bank) to give a proxy in writing signed by one of the Secretaries to Government, to any person whom the Governor General in Council may appoint to attend any general meeting of the Proprietors, and the holder of such proxy shall be entitled to give seven votes upon all matters or questions that may be submitted to such meeting, excepting upon the election or removal of such Directors as are elected by the said Proprietors.

Proxies of Proprietors.

XXI. Any Proprietor entitled to vote at any general meeting may give a proxy in writing either general or special, under his hand or the hand of his Attorney duly authorized, to any other Proprietor, and such proxy shall be produced at the time of voting and shall entitle the person, to whom it is given, to vote on such matters as shall be authorized by the tenor of such proxy. Proxies existing and in force, at the time of this Act coming into operation shall continue in force, anything herein contained notwithstanding.

Directors to choose a President who is to have a casting vote.

XXII. At the first meeting of the Directors in every year, they shall choose a President from among themselves, and whenever the office of President shall become vacant, they shall at their next meeting choose a successor for the remainder of the current year, and during any vacancy or in the absence of the President, the senior Director in rotation shall be Vice-President for the time, and such President or Vice-President shall have the casting vote in all cases of an equal division of votes at meetings either of Directors or Proprietors.

Accounts, receipts, and documents of the Bank, by whom to be signed.

XXIII. The persons for the time being holding the office of Secretary and Treasurer, or of Secretary alone, or of Deputy Secretary of the said Bank, are hereby severally empowered for and on behalf

of the Bank, to endorse and transfer Government securities, Railway shares, certificates and Bonded Warehouse warrants, and other documents of title in goods standing in the name of the Bank, and to draw, accept, and endorse Bills of Exchange, Bank Post Bills, and letters of credit, in the current and authorized business of the Bank, and to sign all other accounts, receipts, and documents, connected with such business.

Seal to be used only in presence of three Directors who shall sign in token of their presence.

XXIV. The seal of the said Bank shall not be affixed to any instrument, except in the presence of three Directors, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness, and unless so signed by three Directors, such instrument shall be of no validity.

Appointment, removal, and remuneration of Officers, &c.

XXV. The Directors for the time being shall have power to appoint such officers, clerks, and servants, as may be necessary to conduct the business of the said Bank, and to remove any officer, clerk, or servant of the said Bank and to fix the salaries of such officers, clerks, and servants.

Prohibits certain Officers from engaging in other commercial business as principal, agent, or broker, and requires them to give security.

XXVI. No person who shall hold the office of Secretary and Treasurer, Deputy Secretary, Head Accountant, or Khazanchee of the said Bank, shall directly or indirectly engage in any other commercial business, either on his own account individually or jointly with others, or as agent for any other persons, or act as a broker; and every person appointed to any one or more of the said offices shall give such security to the Directors for the faithful discharge of his duty as they shall think sufficient. Provided that the security to be given by any Secretary or Treasurer shall be for not less than fifty thousand Rupees.

Business of the Bank specified

XXVII. The business of the said Bank of Bengal shall consist in lending on Government Securities and shares in Railways the interest whereon shall have been guaranteed by Government, and on goods, wares, and merchandize not of a perishable kind, in drawing, discounting, buying, and selling Bills of

Exchange, and other negotiable securities payable in Her Majesty's Indian Territories and not elsewhere; in granting Post Bills payable in Her Majesty's Indian Territories to order or otherwise than to bearer on demand; in buying and selling gold and silver bullion, in making investments in securities of the Government of India or in loans or Bonds secured by the Imperial Parliament on the revenues of India or in debentures of Railways guaranteed by the Government of India; in receiving deposits; in opening cash accounts and credits; in transacting pecuniary Agency business on commission; and in selling property or securities deposited in the Bank as security for loans and not redeemed, or property or securities recovered by the Bank in satisfaction of debts and claims.

Bank may draw Bills of Exchange, &c., for the use of their constituents in the Agency Department.

XXVIII. In addition to drawing, buying, and selling Bills of Exchange and granting Post Bills payable in India, it shall be lawful for the Bank to draw Bills of Exchange and grant letters of credit payable out of India for the use of their Constituents in the Agency Department, and to buy Bills of Exchange payable out of India for the purpose of remitting funds to meet such Bills or Letters of Credit.

Bank may transact the business carried on at the General Treasury, and undertake the management of the Government Paper Currency

XXIX. It shall also be lawful for the said Bank through their Directors, under any arrangement or agreement with the Governor General of India in Council on behalf of the Secretary of State for India in Council, to take over and transact any part of the business of or hitherto carried on at the General Treasury (or in the Department of the Accountant General at Fort William), and to superintend, manage, and become agents for the issue, payment, and exchange of Government Currency Notes under Act XIX. of 1861 (*to provide for a Government Paper Currency*), or any Act which may hereafter be passed in relation to the Paper Currency of the Government of India, and to pay the amount of such Government Currency Notes in silver to the holders thereof on presentation and demand, and the Directors of the said Bank shall have power from time to time to arrange and settle with the Governor General in Council as to the terms of remuneration on which such business in relation to the General Treasury, Accountant General's Department,

and Government Paper Currency shall be undertaken by the Bank, and also as to the examination and audit from time to time of the accounts and affairs of the Bank on behalf of the Governor General of India in Council.

Directors not to make loans on shares, &c.

XXX. The Directors of the said Bank shall not make any loan or advance on shares or consolidated stock of the said Bank, nor on mortgage, or in any other manner on the security of any lands, houses, or immoveable property or the title-deeds relating thereto.

Books to be balanced half-yearly.

XXXI. The Directors of the said Bank shall cause the books of the said Bank to be balanced on the 30th day of June and the 31st day of December in every year, or at such other periods as shall from time to time be determined by the Directors, and a settlement of the balance at every such period signed by a majority of the Directors, shall be forthwith transmitted to one of the Secretaries to the Government of India, and the Governor General of India in Council (so long as the Government shall hold shares or stock in the said Bank, or so long as any such arrangement with the Government as aforesaid, which has already been or shall hereafter be entered into shall remain in force), shall at all times be entitled to require of the said Directors any information touching the affairs of the Bank, and the production of any documents of the said Bank, and the said Directors shall comply with every such requisition.

Dividends to be determined half-yearly.

XXXII. An account of the profits of the said Bank shall be taken half-yearly on the 1st day of January and the 1st day of July in every year, or at such other periods as may from time to time be determined on by the Directors, and a dividend thereof shall be made as soon thereafter as conveniently may be, and the amount of such dividend shall be determined by the Directors of the said Bank, on the basis of the actual profits made by the said Bank during the six calendar months preceding the day up to which such half-yearly account shall be taken, provided that the said Directors shall in their discretion have power to set apart such portion of the said profits as they may deem expedient to be added to the reserve fund against contingencies.

General Meeting of Proprietors.

XXXIII. On the 1st Monday of the month of August in every year, a general meeting of the Proprietors of the capital of the said Bank shall be held, at which the Directors of the said Bank shall submit to the said Proprietors a statement of affairs of the said Bank up to the preceding 30th day of June or to such other day as may be determined on by the Directors.

Election of Auditors.

XXXIV. At the first general meeting of the Proprietors of the Bank held after the coming of this Act into operation, one or more Auditors for the current year may be elected by a majority of votes at such meeting, and in like manner an Auditor may be elected at the first general meeting of the Proprietors in each current year.

Convening of special general meeting.

XXXV. Any three of the Directors or any ten Proprietors of the said Bank may at any time convene a special general meeting of the Proprietors upon giving 15 days' previous notice of such meeting, and of the purpose for which the same shall be convened as well to the Directors of the said Bank for the time being, as also by public advertisement in the "Calcutta Gazette."

Establishment of Branch Banks.

XXXVI. It shall be lawful for the Directors of the said Bank with the sanction of the Governor General of India in Council, from time to time to form business agencies and to establish Branch Banks at such places as they may deem advantageous to the interests of the Bank, with full power to the said Directors to appoint during pleasure such agents, clerks, and servants and either with or without Local Boards of Directors or management, and under such regulations, restrictions, and conditions as to them may seem fit, and from time to time to vary such regulations, restrictions, and conditions, and the said Agents and other Officers shall give such security for their good behaviour as the Directors may require; and it shall also be liable for the Directors from time to time, under any arrangements or agreements with the Governor General in Council on behalf of the Secretary of State in Council, to provide for the conduct and transaction by any such Branch Bank or Banks of any part of the business of or hitherto conducted at the Local Government Treasuries and for the superintendence, management, and agency

of the local issue, payment and exchange of any Government Currency Notes, provided that such arrangements and all regulations and directions given by the said Directors to the Agents or Managers of such Branch Banks, touching the management thereof or the description of business to be undertaken thereby, shall not contain anything inconsistent with or contrary to the provisions of this Act, or of any Bye-laws, Regulations, or orders which may be in force for the time being under the 40th Section of this Act.

Bank may take over capital and business of any other Bank and for that purpose increase its own Capital.

XXXVII. It shall be lawful for the Directors of the said Bank, from time to time, to enter into negotiations for and to purchase and take over the capital, assets, and business of any other Bank within Her Majesty's Indian Territories, of which the capital is divided into shares, and to grant and allot to the Shareholders or Proprietors in such Bank in full of their respective right, title, and interest in such capital, assets, and business a sufficient number of shares in the capital stock of the said Bank of Bengal (which number shall be determined by the Directors), and for that purpose to increase the capital stock of the said Bank by the issue of such number of shares as may be so determined on. The Shareholders or Proprietors of the purchased Bank to whom such new shares shall be allotted, shall be Proprietors of the Bank of Bengal, and be in all respects in the same position as if they had respectively subscribed and paid for the shares so allowed to them. Provided always that the business so purchased shall after the purchase be carried on by the said Bank of Bengal with, and subject to, the several restrictions contained in this Act.

If any Proprietor becomes indebted to the Bank

XXXVIII. If any of the said Proprietors shall become indebted to the said Bank, it shall be lawful for the said Bank to withhold payment of the dividends on the share or shares or consolidated stock of such Proprietor registered as his own property, and not as held in trust or as executor or administrator, until payment of such debt, and to apply such dividends towards payment thereof, and after demand and default of payment, and notice in that behalf given either to such Proprietor, or his constituted agent, or by public advertisement in the "Calcutta Gazette," it shall be

lawful for the said Bank to refuse registration of the transfer of any such share or shares or stock of such Proprietor, until payment of such debt, and if the same shall remain unpaid for the space of six calendar months after such notice, to advertise for public sale and to sell such share or shares or stock or so many or so much as may be necessary, and to apply the proceeds thereof towards payment of such debt, with interest at the rate of six per cent. per annum, paying over the surplus, if any, to such Proprietor or to his lawful representive.

Recognition of legal representatives of deceased proprietors

XXXIX. Where by the death of any Proprietor his share or shares or stock shall devolve on his legal representative, the Bank shall not be bound to recognize any legal representatives of such deceased Proprietor other than a person who has taken out Probate to the will or letters of administration to the estate of such deceased Proprietor from the Supreme Court of Judicature at Fort William, or who has obtained a certificate in respect of the estate of such deceased Proprietor under Act XXVII. of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), describing such shares or stock from a Court of competent jurisdiction within the Presidency of Fort William.

Power of Directors to make, alter and rescind Bye-laws, &c.

XL. It shall be lawful for the Directors for the time being of the said Bank to make and pass Bye-laws, Regulations, and orders for the good government, and in reference to the mode of conducting the business of the Bank, and such regulations and orders from time to time to modify, rescind, and vary, and it shall further be lawful for the Proprietors of the said Bank at any general meeting, whether ordinary or special, to pass resolutions and frame and from time to time rescind and vary Bye-laws and Rules for the direction of the affairs of the Bank, and the same shall be binding on the Directors and Officers and on the Proprietors of the Bank, until rescinded or varied at any subsequent general meeting, provided always that no Bye-law, Regulation, or order, or alteration or rescission of any Bye-law, Regulation, or order, whether passed by the Directors or by the Proprietors at a general meeting, shall be of any validity, except

in so far as the same shall be consistent with the provisions of this Act, and shall be approved by the Governor General of India in Council, such approval to be signified in writing under the hand of one of the Secretaries to the Government of India.

Construction.

XLI. In the construction of this Act, words in the singular number shall include the plural, words in the plural shall include the singular, and words in the masculine gender shall include the feminine, except where the contrary appears by the context.

Commencement of Act.

XLII. This Act shall come into operation on the 1st day of March, 1862.

See next two Acts, Acts V. and VI., 1862.

BANKS OF BENGAL, MADRAS AND BOMBAY, AND GENERAL TREASURIES.

Act No. V. of 1862.

[*Received the assent of the G. G. on the 28th Feb.*, 1862.

Recites that an agreement has been entered into by the Bank of Bengal to take over the pay and receipt business of the General Treasury, &c.; and that a treaty is going on between the Banks of Madras and Bombay respectively, and the Governments to take over Treasuries of those Presidencies, &c., and that divers Government Securities, &c., are payable at the General Treasuries annually.

1, 2. From 1st March, 1862, till fourteen days after notice to the contrary, the Government Treasury will be at the Bank of Bengal, where (2) presentment of securities when necessary shall in future be made instead of at the General Treasury.

3, 4. After notice in Madras and Bombay respectively the General Treasuries of those Presidencies will be at the Bank of Madras and Bombay respectively, where (4) presentment of securities when necessary shall be made instead of at the General Treasury.

5. This Act not to render presentment necessary, if it would not have been necessary before.

An Act to provide for the payment at the Banks of Bengal, Madras, and Bombay, respectively, of moneys payable at the General Treasuries of Calcutta, Madras, and Bombay.

Preamble.

Whereas, under the provisions of Act XXIV. of 1861 (*to enable the Banks of Bengal, Madras and Bombay, to enter into arrangements with the Government for managing the issue, payment, and exchange of Government Currency Notes and certain business hitherto transacted by the Government Treasuries*), the Bank of Bengal has entered into an agreement with the Secretary of State for India in Council through the Governor General of India in Council, that so much of the business hitherto generally transacted at the General Treasury of the Government at the Presidency of Fort William, as consists in receiving and paying money on behalf of the Supreme Government, and the Government of Bengal shall be carried on and transacted by the said Bank, subject to the provisions of the said agreement, and to such orders and directions with regard to receipts and payments as may from time to time be given to the said Bank by the Governor General in Council, or any of the Officers of the Government of India authorised in that behalf:

And whereas the Governor General in Council has given notice in the "Calcutta Gazette" that the Treasury of the Secretary of State for India in Council and of Her Majesty's Indian Government at Calcutta shall, from and after the 1st day of March, 1862, be established at the Bank of Bengal:

And whereas the Bank of Madras and the Bank of Bombay are in treaty with the Governor in Council of Madras and the Governor in Council of Bombay respectively, for the purpose of entering into similar agreements, and it is probable that such agreements will be shortly executed, and that similar notice to that hereinbefore mentioned will be given by the Governors in Council of Madras and Bombay in regard to the Banks of Madras and Bombay:

And whereas divers promissory notes and negotiable securities and other obligations for the payment of money made by or on behalf of the Secretary of State for India in Council or by the Governor General of India in Council, the Governor of Madras in Council, and the Governor of Bombay in Council respectively, on behalf of the East India Company and of the Secretary of State for India in Council, are made payable at the General

Treasury of Fort William in Bengal, the General Treasury at Madras, and the General Treasury at Bombay respectively:

And whereas divers other securities and other obligations are made payable to the Secretary of State for India in Council, or to the said Governor General in Council, or to the Governors in Council of Madras or of Bombay at the said General Treasuries of Fort William in Bengal; Fort St. George and Bombay respectively:

It is therefore enacted as follows:

On and after 1st March, 1862, all sums payable by or to Government to be payable at the Bank of Bengal instead of at the General Treasury at Calcutta.

I. On and after the 1st day of March, 1862, and until the expiration of fourteen days after notice shall be given in the "Calcutta Gazette" by the Governor General of India in Council that the Treasury of the Government will be no longer held at the Bank of Bengal, all sums payable by or to the Secretary of State for India in Council, or by or to the Governor General of India in Council, or the Government of Bengal on behalf of the Secretary of State for India in Council, at the General Treasury of Fort William in Bengal, shall be payable by or to the Secretary of State in Council, or by or to the Governor General of India in Council, or the Government of Bengal respectively on behalf of the Secretary of State in Council, at the Bank of Bengal instead of at the General Treasury at Calcutta.

Presentment of promissory notes, &c., at the Bank of Bengal.

II. Whenever presentment of any promissory note, security or obligation for payment or for any other purpose at the General Treasury of Fort William in Bengal would, before the said 1st day of March, 1862, have been necessary or sufficient, presentment for such purpose at the Bank of Bengal shall be necessary or sufficient, as the case may be, on and after the said 1st day of March, 1862, and until the expiration of fourteen days after such notice as in the 1st Section mentioned shall have been given.

Payment at the Banks of Madras and Bombay of sums payable by or to Government at the General Treasuries at Madras and Bombay

III. If the Governors in Council of Madras and of Bombay respectively shall give notice in the "Government Gazettes" of their Presidencies respectively, that the Banks of Madras and Bombay respectively have entered into

agreements or arrangements with the Secretary of State for India in Council, through the said Governors in Council, for the purposes mentioned in the Preamble of this Act, under the provisions of the said Act XXIV. of 1861, and that from and after a date to be specified in such notice, the Treasury of the Secretary of State for India in Council, and of Her Majesty's Indian Government at Madras and Bombay respectively, shall be established at the Banks of Madras and Bombay respectively, all sums payable by or to the Secretary of State for India in Council, or by or to the Governor of Madras in Council or the Governor of Bombay in Council on behalf of the Secretary of State for India in Council, at the General Treasury at Madras, or at the General Treasury at Bombay respectively, shall from and after the date specified in such notice, and until the expiration of fourteen days after notice shall have been given by the said Governors in Council respectively that the Treasury of the Government will be no longer held at those Banks respectively, be payable by or to the Secretary of State in Council, or by or to the Governor of Madras in Council, or by or to the Governor of Bombay in Council, on behalf of the Secretary of State in Council, at the Bank of Madras or the Bank of Bombay respectively, instead of at the General Treasury at Madras or the General Treasury at Bombay.

Presentment of promissory notes, &c., at the Banks of Madras and Bombay.

IV. In such case, whenever presentment of any promissory note, security, or obligation for payment, or for any other purpose, at the General Treasuries at Madras or Bombay respectively, would have been necessary or sufficient, if such notice had not been given, and this Act had not been passed, presentment for such purpose, at the Banks of Madras and Bombay respectively, shall be necessary or sufficient, as the case may be, on and after the date specified in such notice by the Governors in Council of Madras and Bombay respectively, and until the expiration of fourteen days after such notice as aforesaid that the said Treasury will be no longer held at those Banks respectively, shall have been given.

Proviso as to presentment at the several Banks.

V. Nothing in this Act shall render necessary the presentment at the Banks of Bengal, Madras and Bombay respectively of any security or other obligation

which it would not have been necessary to present at the General Treasuries of Bengal, Madras, and Bombay respectively, if this Act had not been passed.

BANK OF BENGAL.

ACT No. VI. OF 1862.

[*Received the assent of the G. G. on the 12th March*, 1862.

Recites omission to annex to Act IX., 1862, Sec. XI., the Schedule for transfer of consolidated stock, and supplies omission.

An Act to annex a Schedule to Act IV. of 1862 (for regulating the Bank of Bengal).

Preamble

Whereas the Schedule referred to in Section IX. of Act IV. of 1862 (*for regulating the Bank of Bengal*), as Schedule A thereto annexed, has not been annexed thereto, and it is expedient to annex such Schedule to the said Act, it is enacted as follows:

Schedule A of Act IV of 1862.

The Schedule hereto annexed, and marked A, shall be deemed and taken to be the Schedule referred to in Section XI. of the said Act IV. of 1862 as Schedule A thereto annexed, and to be annexed to and to form part of the said Act.

SCHEDULE A.

I, A. B., of do hereby transfer to C. D., of consolidated stock of the Bank of Bengal to the amount of Rs. standing in my name, to hold unto the said C. D., his executors, administrators, representatives, or assigns, subject to the conditions on which I hold the same at the time of the execution hereof.

Dated the day of

EMIGRATION TO FRENCH COLONIES.

ACT No. VII. OF 1862.

[*Received the assent of the G. G. on the 12th March*, 1862.

Recites alteration in the Convention between France and Great Britain since Act XLVI., 1860, was passed; sets out one altered article and two new

articles, one for exchange of ratifications, the other for extension of the convention to Reunion.

Declares and applies Act XLVI. of 1860 to Convention as altered.

An Act to amend Act XLVI. of 1860 (to authorize and regulate the Emigration of Native Laborers to the French Colonies).

Preamble.

Whereas, since the passing of Act XLVI. of 1860 (*to authorize and regulate the Emigration of Native Laborers to the French Colonies*), the Convention therein recited between Her Majesty the Queen of Great Britain and Ireland, and His Majesty the Emperor of the French, has been varied in the following particulars, that is to say: by substituting for Article XXVI. in the said Convention as so recited in the said Act, the following Article:

"ARTICLE XXVI.

"The present Convention shall begin to take effect on the 1st of July, 1862; its duration is fixed at three years and a half. It shall remain in full force, if notice for its termination be not given, in the course of the month of July of the third year, and then notice can be given only in the course of the month of July of each succeeding year.

"In case of such notice being given, it shall cease eighteen months afterwards.

"Nevertheless the Governor General of British India in Council shall, in conformity with the Act of the 19th of September, 1856, relative to emigration to British Colonies, have the power to suspend at any time emigration to any one or more of the French Colonies, in the event of his having reason to believe that in any such Colony proper measures have not been taken for the protection of the Emigrants immediately upon their arrival or during their residence therein or for their safe return to India, or to provide a return passage to India for any such Emigrants at or about the time at which they are entitled to such return passage.

"In case, however, the power thus reserved to the Governor General of British India should at any time be exercised, the French Government shall have the right immediately to terminate the whole Convention if they should think proper to do so.

"But in the event of the determination of the present

Convention, from whatever cause, the stipulations relative to Indian subjects of Her Britannic Majesty introduced into the French Colonies shall be maintained in force in favor of the said Indian subjects until they shall either have been sent back to their own country, or have renounced their right to a return passage to India."

And also by the addition of the two following Articles which were not comprised in the Convention or recited in the said Act, that is to say:—

"ARTICLE XXVII.

"The present Convention shall be ratified, and the ratifications shall be exchanged at Paris in four weeks, or sooner if possible.

"ADDITIONAL ARTICLE.

"His Majesty the Emperor of the French having stated that, in consequence of the order which he gave long ago that no more African Emigrants should be introduced into the Island of Reunion, that Colony has, since last year, had to obtain laborers from India and China; and Her Britannic Majesty having by Convention signed on the 25th of July, 1860, between Her Majesty and His Majesty the Emperor of the French, authorized the Colony of Reunion to recruit six thousand laborers in her Indian Possessions, it is agreed that the Convention of this date shall take effect forthwith with regard to the said Colony of Reunion.

"The present additional Article shall have the same force and validity as if it were inserted word for word in the Convention signed this day. It shall be ratified, and the ratifications shall be exchanged at the same time as those of the Convention."

And whereas the said Convention, with such alterations and additions as aforesaid, together with such additional Article, has been duly signed, ratified, and confirmed:

It is declared and enacted as follows:

Act XLIV. of 1860 to be applicable to the Convention as signed and ratified.

All the provisions of Act XLVI. of 1860 (*to authorize and regulate the Emigration of Native Laborers to the French Colonies*) shall be and remain in full force notwithstanding that the Convention therein recited had been so altered and added to before the same

was signed or ratified as aforesaid: and all such provisions, in so far as the same relate to the Convention recited in the said Act, shall be deemed to apply and shall apply to the said Convention as signed and ratified as aforesaid together with the additional Article thereof.

THE KING OF OUDE.

ACT No. VIII. OF 1862.

[*Received the assent of the G. G. on the 27th March*, 1862.

Recites expediency of partially exempting the King of Oude from the jurisdiction of the Courts of Law.

1. Exempts the King from the jurisdiction of the Criminal Courts, except for offences punishable with death under I. P. C.

2. The King not to be arrested without warrant, and no arrest or search to be made in house in which the King resides, except in the presence, &c., of the Political Agent.

3. On complaint against the King for any offence, except offences punishable with death, the Political Agent may enquire and report to Government of India, which may issue commission to try, and court of trial to report its judgment to Government, &c.

4. Prohibits issue of all process by any Court, civil, revenue, or criminal, against the King or his property, except by consent of the Government of India.

5. Exempts the King from personal appearance as a witness or from making affidavit.

6, 7. But interrogatories and cross interrogatories may be sent to the Political Agent who shall exhibit them to the King and take down his Majesty's answers, which shall be returned to the Court, &c.; and (7) affidavits may be obtained from the King in the same manner.

8. Except by the King's consent no person but the Agent shall be present when His Majesty is examined.

9. The answers and affidavits shall be subject to same objections as if taken in Court.

10. Act not to continue after death of His Majesty.

An Act to protect the personal dignity of His Majesty the King of Oude.

Struck out, because I find it treated as inoperative in the Bill now before Council, referred to in my Preface to Vol. I.

INCOME TAX.

ACT No. IX. OF 1862.

[*Received the assent of the G. G. on the 27th March*, 1862.

Recites the transfer of the Government Treasuries to the Banks of Bengal, Madras, and Bombay, and that interest, &c., subject to income Tax is payable at those Banks, and that therefore it is expedient to constitute the specified Bank Officers *ex-officio* Assessors.

1, 2. Constitutes the Secretary and Treasurer or Secretary or Treasurer, Deputy Secretary and Accountant respectively of the Banks to be *ex-officio* Assessors under Income Tax Act; and (2) divests of that office the Government Sub-Treasurers.

3. Act to take effect from 1st March, 1862.

An Act for constituting the Secretaries and other Officers of the Banks of Bengal, Madras and Bombay, respectively, *ex-officio* Assessors of certain of the Duties payable under Act XXXII. of 1860 (for imposing Duties on profits arising from Property, Professions, Trades, and Offices).

Act XXXII., 1860 (the Income Tax Act), has expired, and this Act has ceased to have any application.

STAMP DUTIES.

ACT No. X. OF 1862.

[*Received the assent of the G. G. on the 17th April*, 1862.

Recites expediency of consolidating and amending the law relating to stamp duties.

1. Repeals Bombay Reg. XII., 1830, and Acts XXXVI., 1860, XL., 1860, and LI., 1860, except so far as they repeal other Acts or Regulations, and except as to Deeds, &c., and proceedings anterior to this Act, and to such this Act not to apply.

2. Prescribes the stamps for deeds, instruments and writings as specified in Schedule A.

3. Imposes a penalty for unstamped or insufficiently stamped papers of kinds provided for in Schedule A.

4. Empowers the G. G. in C. to prescribe the form, size, and material of stamps to be used, and other details.

5—8. Adhesive stamps for prescribed amount may be used on receipts and drafts or orders for the payment of money; also (6) on transfers of shares in joint stock; and (7) also for deeds and any other kinds of instruments when authorised by the G. G. in C., and (8) persons putting

adhesive stamps on any instruments whatever, must mark so as to cancel them, under penalty in case of default.

9, 10. Foreign Bills defined; and if drawn on India to be stamped, if out of India may have adhesive stamps put on them; and (10) Bills purporting to be Foreign Bills drawn out of India shall be stamped as such.

11. Imposes on holder of Foreign Bills for acceptance, &c., in India, the obligation of impressing the proper adhesive stamp before presentation, under a penalty; also of cancelling the stamp; and disentitles holder of Bill without cancelled stamp to recover thereon.

12, 13. Imposes penalty on person drawing inland Bill or set of Bills without the proper stamp; and (13) on person drawing post-dated Bill, or taking, &c., such Bill.

14. Invalidates for all purpose of transfering any right, and for purpose of evidence in any Court, or of registration, unstamped and insufficiently stamped deeds, &c., but may be used on criminal proceeding.

15—18. With respect to unstamped or insufficiently stamped deeds, instruments and writings in the II. Section of the Act provided for, if there was no intention to evade the proper duty, the Collector may, if applied to within six weeks after execution of the deed, &c., put on the proper stamp on payment of duty and double the deficient amount as a penalty, or may remit penalty if the want of proper stamp were unavoidable or of necessity; and (Clause 2) after the six weeks and within four months may do the same on payment of duty and penalty, and after the four months on pdyment of duty and twenty-fold penalty; and (Clause 3) makes it the duty of the Collector to determine whether the requisite stamp shall be impressed; and (Clause 4) he shall decide, in case of doubt, what stamp is proper; (Clause 5) empowers the Board of Revenue to correct orders of the Collector under the Section, and (Clause 6) to remit or diminish penalty; and (16) the stamps impressed under the powers given by Section XV., shall be deemed the proper stamps in all Courts of Justice; and (17) in all cases in which deeds, &c., might be stamped under Section XV., Courts may receive the duty and penalty and then admit the deeds, &c, in evidence, and (17 Clause 2) directs an account to be kept of duty, &c., so received, &c.; and (18) except in cases above provided for no instrument, &c., shall be stamped after execution.

19—21. Entitles parties in doubt as to proper amount of stamp in cases not under Sections XV., XVII., to obtain the opinion of the Board of Revenue on payment of a fee, and (20) all costs to be paid by applicant, and (21) Government and Government Officers to be under no responsibility for loss, &c., except in case of gross negligence, &c.

22. Bills of Exchange, money orders and receipts cannot be stamped under Sections XV., XVII.

23. Payment of penalty under Sections XV., XVII., shall stand in place of all liability for penalty, except in case of pre-imposed penalty.

24. One anna stamps may be affixed on draft or order by receiver, if not by sender, and charged to sender, without prejudice to liability of latter to penalty.

25. In case of Marine Policy in set of 2, if only one is executed on stamp paper, the offender to forfeit not exceeding 1,000 Rupees.

26. Modifies Act VIII., 1859, Section 98, as to refund of stamp duty in case of compromise of suit: refund to be half, unless decree required.

27. Under deeds, &c., on which an optional stamp may be affixed, the amount recoverable shall be limited to the sum for which such stamp, &c., would be sufficient if not optional.

28. Affidavit not made for immediate purpose of being filed in a Court, shall not be filed, read or used, &c., unless stamped according to Schedule A.

29. Persons receiving payment to give stamped receipt if required; and the stamp on Bills, &c., for payment of money to be borne by drawer.

30 Enacts Schedule B, as to stamps on law proceedings, saving all existing cases saved from stamps by special regulation, &c.

31. Makes the Schedules to the Act of same effect as if contained in body of the Act.

32. Questions of valuation for purpose of fixing the amount of stamp required in law proceeding to be decided in Court in which proceeding is brought.

33. Empowers Governor General in Council to lower the duties by order in the Gazette either throughout or in any part of British India.

34. Empowers the Local Government to appoint Officers for collection of stamp duty.

35. All orders of Collectors to be open to revision by Board, except orders under Section XV., and certain specified orders under Section L.

36, 37. Authorizes Local Government to license stamp venders, and fix conditions, and to revoke license; (37) license, with Schedules of the Stamp Act to be stuck up in vender's shop.

38, 39. Venders of stamps to endorse on them the date of sale, name of purchaser, and his own signature, under penalty; and (39) knowingly writing a false name or date, to be liable to a higher penalty.

40—42. Vender bound under penalty to supply every stamp which he has on tender of price; and (41) to take the price only in currency, &c.; and (42) not to take more than the value, &c.

43. Vender subject to penalty if he sells old stamps after use of new ones is enjoined.

44. Entitles stamp officer to examine accounts and stock of stamp vender, and gives remedy for recovery of balance of stamps.

45—47. Subjects to fine, any stamp vender who does not on the determination of his license make up his account with Government, together with unsold stamps, and pay any balance due; such fine to be in addition to any other criminal or civil liability; and (46) is a similar provision in regard to person having the effects of the vender, on his death; and (47) applies to the surety of the vender.

48. Prohibits sale of stamps by unlicensed persons, except by purchaser

of stamp for use, and except adhesive stamps, and stamps for Bills, Receipts, Promissory Notes, orders for money, agreements for loans, &c., and Bills of Lading.

49. Authorizes refund of value of stamps in possession of licensed vender at time of his death.

50. Provides for exchange of new stamps for stamps damaged, spoiled, or unfit for use, and stamps rendered of no avail by failure of the transaction, &c.; but (Clause 2) the application to be made to the Collector by whom the original stamps were issued and within six months after the original stamp was spoiled, damaged, or rendered useless; and (Clause 3) whenever a new stamp may be given in exchange, the value may be returned instead.

51. In case of sale of any property or right, title, or interest in property not being joint stock shares transferable by endorsement, the full and true consideration shall be stated in words in the body of the conveyance, or at the foot in case of conveyance in form prescribed by any regulation, under penalty specified against seller and purchaser; and (Clause 2) another penalty against person knowingly, &c., inserting untrue statement.

52, 53. Offences against this Stamp Act to be prosecuted only by the Collector or other authorized officer; and (53) such offences may be tried by every officer exercising the powers of a Magistrate or subordinate of 1st class, &c.

54, 55. Fines under sentence of Magistrate may be levied by distress and sale of offenders' goods; and (55) not more than one-half may be awarded to informer.

56. Interprets the words, "stamp;" "value;" "Bill of Exchange;" "Deed;" "Paper;" Month;" "British Territories in India;" and makes number and gender apply to singular and plural, and males and females.

57. Act to come into operation 1st June, 1862.

Schedule A. Specification of deeds, instruments, and writings requiring to be stamped. Schedule B. Specification of Law, proceedings and stamps required on them. Special Rules for Bengal and for Bombay.

An Act to consolidate and amend the Law relating to Stamp Duties.

Preamble

Whereas it is expedient to consolidate and amend the law relating to Stamp Duties, it is enacted as follows:

Repeal of Laws

I. From the time when this Act shall come into force, Regulation XII., 1830, of the Bombay Code (*for modifying the rule provided in Clause first, Section III., Regulation IV.*, 1827, *for valuing lands in Civil actions*), Act XXXVI., of 1860 (*to consolidate and amend the Law relating to Stamp Duties*), Act XL., of 1860 (*to amend Act XXXVI., of* 1860), and Act LI., of 1860 (*further to amend*

Act XXXVI., of 1860), are repealed, except in so far as they rescind other Acts or Regulations or parts of other Acts or Regulations, and except as regards Deeds, Instruments, or Writings which shall have been made or executed, and all proceedings or matters which shall have taken place before this Act shall come into force. In respect of any such Deed, Instrument, or Writing, the provisions of the Acts and Regulations which were in force at the time such Deed, Instrument, or Writing shall have been made or executed, or such proceeding or matter shall have taken place, shall be applicable in the same manner as if this Act had not been passed.

Stamp Duty payable under Schedule A.

II. For every Deed, Instrument, or Writing which shall be executed from the time when this Act shall come into force, and which shall be of any of the kinds specified as requiring Stamps by the Schedule A annexed to this Act, there shall be payable to Government a Stamp Duty of the amount indicated in the said Schedule to be proper for such Deed, Instrument, or Writing.

Penalty for drawing, &c., unstamped or insufficiently stamped Bill of Exchange, &c.

III. If any person shall draw, or, except as provided in Section XXV. of this Act, shall accept, endorse, negotiate, pay, or receive payment of any Bill of Exchange, Promissory Note, Draft, Cheque, or other similar Instrument, or if any person shall make, execute, sign, or be a party to any Deed, Instrument, or other Writing, engrossed on unstamped or insufficiently Stamped paper or other material, which should bear a Stamp of the value set forth in Schedule A, annexed to this Act, every such person so offending, shall (unless in any case in which a higher penalty is imposed by this Act) forfeit a sum not exceeding one hundred Rupees, or a sum equal to ten times the value of the Stamp omitted to be used, if the sum so calculated exceed one hundred Rupees.

Governor General in Council to prescribe the form, &c., of Stamps to be used

IV. The Governor General of India in Council shall prescribe the form, size, and material of the Stamps to be used, and the mode and place of impressing, affixing, or denoting thereupon the value of the same under the provisions of this Act, and may from time to time alter and vary the orders which he may so issue. The orders made by the Governor General of India in

Council under this Section shall be published in the Official Gazettes of the several Presidencies and places in which such orders are to be in force.

Receipt Stamps, how to be denoted.

V. The Duty imposed by this Act on Receipts and Drafts or Orders for the payment of money on demand, and bearing the date on which the Draft or Order is made, may be denoted by an adhesive Stamp affixed to the paper upon which such Instrument is written.

Adhesive Stamps may be used for transfers of shares of Banking Corporations, &c.

VI. The Duty chargeable on the transfer of a share of any Banking Corporation or Joint Stock Company, which by any law applicable to such Corporation or Company can be effected by simple endorsement, may be denoted by an adhesive Stamp affixed thereto.

Governor General in Council may authorize the use of adhesive Stamps for other Deeds, &c.

VII. It shall be lawful for the Governor General of India in Council, by an order to be published in the Official Gazette, to authorize the use in the whole or in any part of the British Territories in India to be mentioned in such order, of adhesive Stamps for any Deeds, Instruments, or Writings required to bear a Stamp, other than the Instruments mentioned in the last two preceding Sections.

Obliteration of adhesive Stamp when used.

VIII. In any case where an adhesive Stamp shall be used as hereinbefore authorized, the person making the Deed, Instrument, or Writing to which such Stamp is affixed, shall, before the Deed, Instrument, or Writing shall be delivered out of his hands, custody, or power, cancel the Stamp so used, by writing thereon his name or the initial letters of his name, or in such other manner as to show that such Stamp has been made use of, and so that the same shall not admit of being used again; and if any person who shall write or give any Receipt or discharge or make or sign any Draft or Order, or any other Deed, Instrument, or Writing with an adhesive Stamp thereon when an adhesive Stamp is allowed to be used, shall not *bonâ fide* in manner aforesaid cancel such Stamp, he shall forfeit a sum not exceeding one hundred Rupees.

Stamps on Bills of Exchange, &c.

IX. The Duty imposed by this Act on Foreign Bills of Exchange shall be paid on account of all Bills drawn within, but payable out

of the British Territories in India, and on account of all Bills drawn out of the British Territories in India, which shall be accepted, endorsed, transferred, paid, or otherwise negotiated within those Territories wheresoever the same may be payable; and the duty so imposed on Bills drawn out of the British Territories in India, may be denoted by adhesive Stamps to be affixed to such Bills as hereinafter directed.

Bills purporting to be drawn abroad deemed for the purposes of this Act to be so drawn.

X. Every Bill of Exchange which shall purport to be drawn at any place out of the British Territories in India, shall, for all the purposes of this Act, be deemed to be a Foreign Bill of Exchange drawn out of the British Territories in India, and shall be chargeable with Stamp Duty accordingly, notwithstanding that in fact the same shall have been drawn within those Territories.

The holder of a Bill drawn out of the British Territory to affix an adhesive Stamp thereon before negotiating it.

XI. The holder of any Bill of Exchange drawn out of the British Territories in India, and not having a proper Stamp affixed thereon as herein directed, whether the same be a single Bill or one of a set of two or more Bills, shall, before he shall present the same for acceptance or for payment, or endorse, transfer, or in any manner negotiate such Bill, affix thereto a proper adhesive Stamp for denoting the Duty by this Act charged on the amount of such Bill when drawn singly, and the person who shall present such Bill for acceptance or payment, or who shall endorse, transfer, or in any manner negotiate such Bill, shall, before he shall deliver the same out of his hands, custody, or power, cancel the Stamp so affixed by writing across the Bill as his endorsement, his name or the name of his firm, and the date of the day and year on which he shall so write the same, or by affixing thereon or across the same the seal or mark which he is in the habit of using, or in such manner as to show that the stamp has been made use of, and so that the same shall not admit of being used again; and if any person shall present for acceptance or for payment, or shall accept, pay, or endorse, transfer, or in any manner negotiate any such Bill as aforesaid, whereon there shall not be such adhesive Stamp as aforesaid, duly affixed, or if any person, who ought as directed by this Act to cancel such Stamp in manner aforesaid, shall refuse or

Penalty for negotiating such Bill without a Stamp affixed or for neglecting to cancel such Stamp.

neglect so to do, every such person so offending in any such case shall be liable to the penalty prescribed in Section III. of this Act; and no person who shall take or receive from any other person any such Bill as aforesaid, either in payment or as a security, or by purchase or otherwise, shall be entitled to recover thereon, or to make the same available for any purpose whatever, unless at the time when he shall so take or receive such Bill, there shall be such Stamp as aforesaid affixed thereto, and cancelled in the manner thereby directed.

Penalty for drawing Bills purporting to be drawn in a set of two or more and not drawing the whole number of the set.

XII. If any person shall, within the British Territories in India, draw any Bill of Exchange, purporting to be drawn in a set of two or more, and shall, not draw at the same time on paper duly stamped as required by this Act the whole number of Bills of which such Bill purports the set to consist, he shall forfeit a sum not exceeding one thousand Rupees.

Penalty for drawing &c., post-dated Bills of Exchange.

XIII. If any person, in order to avoid the payment of the duty prescribed by Schedule A annexed to this Act, shall make or draw any Bill of Exchange bearing a date subsequent to the date on which such Bill is actually made or drawn, or if any person, knowing that such Bill has been so post-dated, shall take or receive such Bill, or shall accept, pay, endorse, transfer, or in any manner negotiate the same, every such person so offending shall forfeit a sum not exceeding five hundred Rupees.

Effect of a Writing not duly Stamped.

XIV. Except as otherwise provided by this Act, no Deed, Instrument, or Writing for which any Duty shall be payable under Section II. of this Act, shall be received as creating, transferring, or extinguishing any right or obligation, or as evidence in any Civil proceeding in any Court of Justice, whether established by Royal Charter or otherwise, or shall be acted upon in any such Court or by any public Officer, or shall be registered in any public Office, or authenticated by any public Officer, unless such Deed, Instrument, or Writing be upon a Stamp, or when an adhesive Stamp shall be allowed to be used, shall bear a Stamp of a value

not less than that indicated to be proper for it by the Schedule A annexed to this Act. Provided that every Deed, Instrument, or Writing liable to Stamp Duty, shall be admitted as evidence in any Criminal proceeding, although it may not have the Stamp required by this Act impressed thereon or affixed thereto.

Proviso.

XV. *Clause* 1.—If any Deed, Instrument, or Writing requiring to be stamped under Section II. of this Act, shall have been executed on paper not bearing the proper Stamp, the Collector of Stamp Revenue of the District, if satisfied that the omission or neglect to execute such Deed, Instrument, or Writing on paper bearing the proper Stamp did not arise from any intention to evade payment of the Stamp Duty prescribed by this Act for such Deed, Instrument, or Writing, or otherwise to defraud the Government, may, on payment of the proper Stamp Duty, or if the Deed, Instrument, or Writing shall be insufficiently stamped, on payment of such sum as with the amount of the Stamp upon such Deed, Instrument, or Writing, shall suffice to complete the prescribed amount, and, as a penalty, double the amount required to make up the same, direct that such Deed, Instrument or Writing be duly stamped; provided that such Deed, Instrument, or Writing be presented to such Collector for the purpose of having the proper Stamp affixed to or impressed upon it within six weeks from the date of its execution. If the Collector be satisfied that the omission or neglect to execute such Deed, Instrument, or Writing on paper bearing the proper Stamp arose solely from urgent necessity or unavoidable accident, he may remit the penalty prescribed by this Section.

Deeds inadvertently executed on paper not bearing proper stamp may be duly stamped on payment of proper Stamp Duty and penalty if brought to the Collector within six weeks.

Remission of penalty.

Clause 2.—If any Deed, Instrument, or Writing requiring to be stamped under Section II. of this Act which shall have been executed on unstamped or insufficiently stamped paper, shall be brought to such Collector for the purpose of being properly stamped after six weeks from the date of its execution, but within four months from that date, such Collector, if satisfied that the

Penalty if executed on unstamped or insufficiently stamped paper and brought to be stamped after six weeks of execution but within four months of that date.

omission or neglect to execute such Deed, Instrument, or Writing on paper bearing the proper Stamp, did not arise from any intention to evade the payment of the Stamp Duty prescribed by this Act for such Deed, Instrument, or Writing, or otherwise to defraud the Government, may, on payment of a sum sufficient to make up the proper amount of Stamp Duty, and as a penalty treble the amount required to make up the same, direct that the requisite Stamp be impressed on such Deed, Instrument, or Writing; or if such Deed, Instrument, or Writing shall not be brought to such Collector until after the expiration of four months from the date of its execution, the requisite Stamp may be ordered to be impressed on payment of the sum required to make up the proper amount of Stamp Duty, and as a penalty twenty times the amount required to make up the same.

Penalty if brought after four months.

Clause 3.—It shall be the duty of the Collector of the Stamp Revenue of the District, to determine whether the requisite Stamp shall be impressed on any Deed, Instrument, or Writing falling under the last two preceding Clauses, which shall have been executed on unstamped or insufficiently stamped paper.

Collector to determine whether, on payment of penalty, a Deed, &c., executed on unstamped or insufficiently stamped paper shall be stamped.

Clause 4.—Whenever a doubt shall arise respecting the proper amount of the Stamp to be impressed under this Section on any Deed, Instrument, or Writing, the Collector of Stamp Revenue of the District shall determine the amount of Stamp to be impressed upon such Deed, Instrument, or Writing.

Collector to decide the proper amount of Stamp Duty to be impressed upon any Deed, &c., under this Section.

Clause 5.—In any case falling within this Section in which it shall appear to the Board of Directors or the Chief Controlling Revenue Authority that a Collector of Stamp Revenue has directed an improper Stamp to be impressed upon any Deed, Instrument, or Writing, such Board or other Authority as aforesaid, may, if the Stamp ordered by the Collector to be impressed upon such Deed, Instrument, or Writing shall not have already been impressed thereupon, order the proper Stamp to be impressed upon such Deed, Instrument, or

Board of Revenue, &c., may in certain cases order the proper Stamp to be impressed.

Writing upon payment of the proper amount of Stamp Duty and the penalty to which the holder of such Deed, Instrument, or Writing is liable under Clause 1 or Clause 2 of this Section.

Clause 6.—The Board of Revenue or other Chief Controlling Revenue Authority may, upon petition, order any penalty imposed under this Section to be mitigated, and if paid may order the whole or any part of it to be returned.

Mitigation or return of penalty under this Section.

XVI. The Stamp which shall be impressed under the last preceding Section, shall be taken in any Court of Justice to be the proper Stamp required by this Act for the Deed, Instrument, or Writing on which the same is impressed.

The Stamp impressed under the preceding Section to be taken to be the proper Stamp.

XVII. *Clause* 1.—In any case in which a Stamp might be impressed under Section XV., of this Act, a Civil Court may receive in evidence any Deed, Instrument, or Writing not bearing the Stamp prescribed by Schedule A annexed to this Act, on payment into Court of the proper amount of Stamp Duty to be determined by the Court, whose decision on the point shall be final, together with the penalty required by the said Section.

In cases falling under Section XV., Civil Courts may receive in evidence unstamped or insufficiently stamped Deeds, on payment of the proper Stamp Duty and penalty.

Clause 2.—An entry of such payment setting forth the amount thereof shall be made in a book to be kept by the Court, and shall also be endorsed on the back of the Deed, Instrument, or Writing, and shall be signed by the Court. The Court shall, at the end of every month, make a return to the Collector of the Stamp Revenue of the District, of the money (if any) which it has so received, distinguishing between the sums received by way of penalty and the sums received by way of Duty, stating the number and title of the suit, and the name of the party from whom such money was received, and the date, if any, and description of the document, for the purpose of identifying the same: and the Court shall pay over the money so received to such Collector or to such person as he may appoint to receive the same. Such Collector or other proper Authority shall, upon the production of the Deed, Instrument, or Writing, with the endorsement hereinbefore

Procedure on payment under preceding Clause.

mentioned, cause it to be stamped thereon with a Stamp of the amount paid into Court on account of such Duty. The provisions contained in Clause 6, Section XV., of this Act as to the mitigation or payment of penalties paid to the Collector, shall be applicable to penalties paid into Court under this Section.

No unstamped or insufficiently stamped Deed, &c., to be stamped, except as aforesaid.

XVIII. No Deed, Instrument, or Writing executed on unstamped or insufficiently stamped paper, shall be stamped at any time after the execution thereof, except as hereinbefore provided.

Procedure (in cases other than those provided for in Section XV. and XVII.) for determining the proper amount of Stamp Duty to be impressed on any Deed.

XIX. When in any case other than the cases provided for in Sections XV. and XVII. of this Act, any person shall entertain any doubt respecting the proper amount of Stamp Duty for any Deed, Instrument, or Writing, he may apply to the Board of Revenue or the Chief Controlling Revenue Authority, either directly or through the Collector of Stamp Revenue of the District, for an adjudication with a view to remove such doubt, and shall at the same time, pay a fee of ten Rupees, and thereupon such Board or other Authority as aforesaid shall determine the amount of Stamp which such Deed, Instrument, or Writing should bear, and on payment thereof, shall cause such Deed, Instrument, or Writing to be impressed with such Stamp, and an additional Stamp denoting that such adjudication fee has been paid. A Deed Instrument, or Writing so stamped, shall be received in evidence as properly stamped in any Court of Justice.

Cost of transmitting Deed, &c., to be stamped, by whom to be paid.

XX. The cost of transmitting by post any Deed, Instrument, or Writing required to be stamped under any of the foregoing Sections of this Act, and the cost of registering the same at the Post Office for transmission, shall, in all cases, be borne by the party applying to have such Deed, Instrument, or Writing stamped.

Government not responsible for loss or damage to Deed, &c.

XXI. The Government shall not be responsible for any loss or damage which shall occur in respect of any Deed, Instrument, or Writing entrusted to the Collector of Stamp Revenue of the District

for the purpose of being stamped, and no person employed by the Government in the Stamp Department shall be responsible for any such loss or damage, unless such person shall wilfully, fraudulently, or by gross negligence, cause such loss or damage.

Provisions of Sections XV. and XVII. not to extend to Bills of Exchange, &c.

XXII. The provisions of Sections XV. and XVII. of this Act, shall not extend to Bills of Exchange or other forms of Orders for money, or to Receipts for money.

Exemption from further penalties than those prescribed in Section XV. or XVII.

XXIII. The payment of any penalty under Section XV. or Section XVII. of this Act shall exempt the person paying the same from any further penalty for any such omission or neglect as is therein described, and if any other such penalty shall already have been imposed, the same shall be taken so far as it goes in reduction of any penalty under the said Sections.

Persons receiving unstamped Draft or Order for payment of money on demand, may affix Stamps thereto.

XXIV. When any Draft or Order for the payment of money on demand chargeable with the Stamp Duty of one anna shall come to the hand of any person unstamped, it shall be lawful for such person to affix thereto the necessary adhesive Stamp and to cancel the same in the manner required by this Act, and upon so doing to charge the Duty against the person who ought to have paid the same, or to deduct such Duty from the sum so directed to be paid, and such Draft or Order shall, so far as relates to the Stamp Duty chargeable thereon, be good and valid; but this shall not relieve any person from the liability to the penalty which he may have incurred by issuing the said Draft or Order unstamped.

Penalty for executing or receiving only one number of a Policy of Marine Insurance purporting to be drawn in a set of two.

XXV. If any person shall, within the British Territories in India, execute any Policy of Marine Insurance, purporting to be drawn in a set of two, and shall not at the same time execute on paper duly stamped as required by this Act, the two numbers of which such Policy purports the set to consist, every such person so offending shall forfeit a sum not exceeding one thousand Rupees.

Refund in certain cases of half the amount of Stamp Duty on plaint in the event of agreement, compromise, or satisfaction.

XXVI. In modification of so much of Section 98 of the Code of Civil Procedure as declares that on the application of the plaintiff reciting the substance of any agreement, compromise, or satisfaction, in accordance with which a suit is adjusted and disposed of, the Court, if satisfied that such agreement, compromise, or satisfaction has been actually entered into or made, shall grant a certificate to the plaintiff, authorising him to receive back from the Collector the full amount of Stamp Duty paid on the plaint, if the application shall have been presented before the settlement of issues, or half the amount if presented at any time after the settlement of issues, and before any witness has been examined,—it is enacted that if such application shall have been presented before the suit is called up for the settlement of issues, or in suits in which the summons to the defendant shall be for the final disposal of the suit, as directed in Section 41 of the said Code, and in Section 9 of Act XLII. of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts established by Royal Charter*), before the hearing of the suit has commenced, the Court, if satisfied that such agreement, compromise, or satisfaction has been actually entered into or made, shall grant a certificate to the plaintiff, authorizing him to receive back from the Collector half the amount of Stamp Duty paid on the plaint. Provided that no such certificate shall be granted if the adjustment between the parties be such as to require a decree to pass, on which process of execution can be taken out, or in any appealed suit. [Extended by Act XI., 1865, s. 47, to all suits, &c., under that Act, except, &c.]

What sum recoverable under a Writing bearing an optional Stamp.

XXVII. No larger sum shall be recoverable in any Court of Justice by reason of any Deed, Instrument, or Writing, for which an optional Stamp is indicated to be proper by the Schedule A annexed to this Act, than the largest sum for which, if specially stated in a Deed, Instrument, or Writing of the same denomination, the Stamp actually used under the option so given would be of sufficient value. And no such Deed, Instrument, or Writing shall be held by any Court of Justice to be valid in respect to any sum of money larger than that for which

the Stamp on the said Deed, Instrument, or Writing would be sufficient.

Stamp on certain affidavits.

XXVIII. No Justice of the Peace or any Officer, before whom an affidavit not made for the immediate purpose of being filed, read, or used in any Court of Justice, may be taken, shall receive or attest such affidavit, unless it be written on a Stamp of not less than the value prescribed by the Schedule A annexed to this Act.

Expense of providing Receipt Stamps, &c.

XXIX. Every person receiving payment of any sum of money, the receipt for which under this Act requires a Stamp, shall (if required) give a receipt, bearing the proper Stamp indicated by this Act, and shall bear the expense of furnishing the same, and in case of refusal shall be liable to a penalty not exceeding one hundred Rupees. The expense of providing the stamp of any Bill of Exchange, Letter of Credit, Draft, Cheque on a Banker or other person, Promissory Note, or other Order or Obligation for the payment of money made or drawn in the British Territories in India (not being a Bond, Instrument, or Writing bearing the attestation of one or more witnesses), shall be borne by the person making or drawing the same.

Stamp Duties under Schedule B.

XXX. Except in any Court of Justice established by Royal Charter, or in any Court of Small Causes established within the local limits of the jurisdiction of any such Court, no Instrument or Writing of any of the kinds specified as requiring Stamps in the Schedule B annexed to this Act, shall be filed, exhibited, or recorded in any Court of Justice or Government Office, or shall be received or furnished by any public Officer, unless such Instrument or Writing be upon a Stamp of a value not less than that indicated to be proper for it by the said Schedule B. Provided that nothing in this Act shall be held to repeal any special provision in the Code of Civil Procedure or in any other Act or Regulation for the use of plain or unstamped paper in any judicial proceeding, unless such provision shall be expressly repealed by this Act. [By Act XXVI., 1867, s. 2, the exception at the beginning of this Section is not to apply to the High Court, N. W. Provinces.]

Proviso.

XXXI. Every provision contained in the Schedules annexed to this Act, shall be of the same force as if it were contained in the body of the Act.

Effect of provision contained in the Schedules.

XXXII. All questions relating to the valuation of claims for the purpose of determining the amount of Stamp duty chargeable under Schedule B annexed to this Act on any petition of plaint or appeal, shall be decided by the Court in which such petition of plaint or appeal is filed, subject to any appeal to which the orders of such Court are open.

Decision of questions regarding valuation of claims.

XXXIII. The Governor General of India in Council may, from time to time, by an order to be published in the Official Gazette, direct that in the whole or in any part of the British Territories in India to be specified in such order, such lower rates of Stamp Duty as he shall prescribe, shall be taken on all or any of the Deeds, Instruments or Writings, specified in the Schedules annexed to this Act, or altogether exempt the same, and in like manner, as occasion shall require, cancel or vary such order to the extent of the powers hereby given. Such cancelment or variation shall also be notified in the Official Gazette. [Repealed by Act XVIII., 1865, s. 1, and more extensive powers substituted.]

Governor General in Council may lower rates of Stamp Duty in any District, or altogether exempt the same, &c.

XXXIV. The Local Government shall appoint Officers for the collection of the Stamp Revenue, and shall assign Districts to such Officers.

Appointment of Officers for collection of Stamp Revenue.

XXXV. All orders passed by the Collectors of Stamp Revenue shall be open to revision by the Board of Revenue or other Chief Controlling Revenue Authority, except orders passed under Section XV. of this Act when the Collector shall allow a Deed, Instrument, or Writing not bearing the proper Stamp to have the proper Stamp impressed upon it, and orders passed under Section L. of this Act, when the Collector shall allow a new Stamp or the value in money to be given in lieu of any Stamp which shall have been damaged, soiled, or rendered unfit for use. All such orders shall be final and shall not be open to revision.

Orders of Collectors of Stamp Revenue open to revision by Board of Revenue, &c.

XXXVI. The Local Government may license or cause to be licensed Venders of Stamps, and may direct how and under what conditions Stamps may be supplied to such Venders for sale, and what accounts of such Stamps shall be kept by them. The license may be for any time, and may, at any time, be revoked by the authority granting the same.

Licensed Stamp Venders.

XXXVII. Every Vender of Stamps shall, at all times, have his license, together with the Schedules annexed to this Act, in the Vernacular language of the District, stuck up in a conspicuous situation in the place where he sells the Stamps, on pain of a fine not exceeding fifty Rupees.

Licenses and Schedules to be stuck up in Stamp Vender's shop.

XXXVIII. Every Vender of Stamps shall write on the back of every Stamp which he sells, except adhesive Stamps, and Stamps used for Receipts, or for Bills of Exchange, Promissory Notes, Drafts, or other Orders for money, Agreements for Loans falling under Article 13 of the Schedule A annexed to this Act, or Bills of Lading, the date of sale, the name of the person to whom the Stamp is issued, and his own ordinary signature, on pain of a fine not exceeding one hundred Rupees.

Endorsement of Stamps by Venders

XXXIX. Any Vender who shall knowingly write a false name or date on the back of any Stamp which he is required to endorse under the last preceding Section, shall be punished by a fine not exceeding five hundred Rupees, or imprisonment with or without hard labor not exceeding three months, or both.

Penalty for Vender writing a false name or date

XL. Every Vender of Stamps shall, without delay, deliver any Stamp which he has in his possession for sale, on demand by any person tendering the value in any currency which the Vender is duly authorized to receive in payment for Stamps, on pain of a fine not exceeding one hundred Rupees.

Delay by Stamp Vender in issuing Stamps.

XLI. Any Vender who demands or accepts, for any Stamp, any consideration other than the value thereof in such currency as he is duly authorized to receive in payment for Stamps, shall be punished by a fine not exceeding one hundred Rupees.

Stamp Vender accepting any consideration other than that authorised

XLII. Any Vender who demands or accepts, for any Stamp, any consideration exceeding the value of such Stamp, shall be punished by imprisonment with or without hard labor for a period not exceeding six months, or by a fine not exceeding ten times the value so demanded or accepted, or by both, and it shall be in the discretion of the Court or Officer passing the sentence, to direct the value of the excess to be refunded out of such fine to any person from whom such excessive consideration may have been accepted.

Stamp Vender accepting any consideration exceeding the value of the Stamp.

XLIII. Any Vender or other person who, after any period which may have been appointed by the Governor General of India in Council for the commencement of the use of new Stamps, sells any old Stamps, shall be punished by a fine not exceeding one hundred Rupees.

Illegal sale of old Stamps.

XLIV. If any Vender refuse or omit to render any account required from him, or to permit the Collector of the Stamp Revenue of the District, or any Officer duly authorized by such Collector to inspect his accounts or to examine the store of Stamps in his possession, it shall be lawful for such Collector to proceed against such Vender for the recovery of the value of the balance of Stamps standing against him in the books of such Collector, or for the recovery of the balance of money standing against such Vender in the said books, in the same manner as Collectors of Land Revenue are authorized by law to proceed against persons owing revenue or rent to Government.

Stamp Vender refusing or omitting to render accounts.

XLV. Any Vender who, upon the determination, revocation or resignation of his license, does not, within such reasonable time as shall have been prescribed by the Collector of the Stamp Revenue of the District, make over to some Officer duly authorized to receive the same, on account of the Stamps entrusted to him for sale on the part of Government, together with any such Stamps remaining, or which ought to be remaining for sale in his hands, and any balance of cash which may be due from him to Government in respect of such Stamps, shall be liable to a fine not exceeding five hundred Rupees; provided

Delivery of Stamps, &c., by Vender on determination of his license.

always that no Vender shall, by the payment of such fine, be exempt from any punishment provided by law for any embezzlement of which he shall have been guilty, or from such proceeding as by the last preceding Section the Collector of the Stamp Revenue of the District is empowered to adopt for the recovery of the value of any stamps or balance of cash remaining in the hands of or standing against such Vender.

On death of Stamp Vender, unsold Stamps, &c., to be delivered to a duly authorized Officer.

XLVI. Upon the death of any Vender, the person in possession of such Vender's effects, shall, upon demand being made by the Collector of Stamp Revenue of the District or any Officer duly authorized by him, make over, within a reasonable time, to such Collector or Officer as aforesaid any Stamps which the deceased Vender shall have received for sale on the part of Government and shall not have sold at the time of his death, and any account kept by such deceased Vender in respect of such Stamps, of which Stamps and accounts such person as aforesaid may have the possession, or be able to obtain the possession, on pain of a fine not exceeding five hundred Rupees.

Proceedings against sureties of Stamp Vender.

XLVII. The Collector of Stamp Revenue of the District may call upon the surety of a Vender of Stamps, to make good the value of the balance of Stamps standing against such Vender in the books of such Collector, or the balance of money standing against such Vender in the books of such Collector, and on his failure to do so, may proceed against such surety for the recovery of the value of the balance of Stamps, or for the recovery of the balance of money as aforesaid, in the same manner as Collectors of Land Revenue are authorized by law to proceed against the surety of a person owing revenue or rent to Government.

Unlicensed sale of Stamps.

XLVIII. No person, not being a licensed Vender of Stamps duly appointed, shall sell any Stamp unless it has been in an authorized manner obtained for use and not for sale, under pain of a fine not exceeding one hundred Rupees; provided that nothing in this Section shall be held to apply to any adhesive Stamp, or to any Stamp used for a

Receipt, Bill of Exchange, Promissory Note, or other order for money, or to an Agreement for a loan falling under Article 13 of the Schedule A annexed to this Act, or to a Bill of Lading.

If licensed Vender die or his licence expire or be revoked.

XLIX. If any licensed Vender die, or if his license expire or be revoked, the Stamps in the possession of such Vender, of which, after deducting the percentage or discount allowed, he has paid the amount to Government, may within three months from the date of the death of such Vender, or from the date on which his license expired or was revoked, as the case may be, be brought to the Collector of Stamp Revenue of the District, who shall repay such amount. Provided that such Stamps were actually in the possession of such Vender for the purpose of sale, and were procured by him from the Collector of Stamp Revenue of the District.

Renewal of damaged or spoiled Stamps.

L. *Clause* 1.—If any Stamp Paper, after having been obtained in the manner allowed by this Act, shall have become damaged, spoiled, or unfit for use, either by any accident happening to the same, or because of some error in the drawing up or copying of any Deed, Instrument, or Writing thereupon, which being discovered before such Deed, Instrument, or Writing shall be finally signed and executed, renders the same of no avail; or when by reason of the death or refusal of the party whose signature may be necessary to effect the transaction intended by such Deed, Instrument, or Writing, it remains incomplete and of no avail; or when by the refusal of any Office or trust that may be granted by a Deed, Instrument, or Writing, it has failed of the purpose intended; or if any Deed, Instrument, or Writing duly stamped shall not have been finally executed by reason of any accident having happened to the same, or because of some error in the drawing up or copying thereof having been discovered, the same is rendered of no avail; or if by reason of failure of consideration, the transaction intended by such Deed, Instrument, or Writing cannot be effected, or such transaction has been effected by some other Deed, Instrument, or Writing duly stamped, or in the case of a Promissory Note, Bill of Exchange, or the like, if by non-delivery to the payee or person acting on his

behalf, or from other cause, the same is never brought to use, and in the case of a Bill of Exchange, other than a Bill drawn in sets as provided in this Act, if it shall not have been presented for acceptance; in all such cases, it shall be competent to the Collector of the Stamp Revenue of the District upon delivery being made of such Stamp Paper, so damaged, spoiled, or rendered unfit for use, to cause a similar Stamp or Stamps of equal value to be delivered to the owner of such Stamp Paper, so damaged, spoiled, or rendered unfit for use, or to his representative, upon payment of the value of the Paper on which the new Stamp shall be impressed. The provisions of this Section shall not extend to any Bill of Exchange drawn in a set, if any one of such set shall have been delivered to the payee, or to any adhesive Stamp.

Clause 2.—The owner of any Stamp which shall be damaged, spoiled, or rendered unfit for use as aforesaid, shall prefer his application to the Collector of Stamp Revenue of the District in which he may have purchased the same, and if such Collector be of opinion that the application ought to be complied with, he shall deliver or cause to be delivered, subject to the provisions of this Act, to the party or his representative, a Stamp similar or of equal value to that which has been damaged, spoiled, or rendered unfit for use. Provided that the application be made within six months of the period when the Stamp shall have become damaged, spoiled, or rendered unfit for use.

Application for renewal.

Clause 3.—In any case in which, under this Section, a Collector may give a new Stamp in lieu of a Stamp damaged, spoiled, or rendered unfit for use, he may, if he shall see fit, repay to the party making the application the amount of such Stamp in money.

Collector may repay the amount of damaged Stamps, instead of giving new Stamps

LI. *Clause* 1.—From the time when this Act shall come into force, in case of the sale of any land, annuity, or other property, real or personal, moveable, or immovable, not being a share of any Banking Corporation or Joint Stock Company when the same is transferred by simple endorsement, or of any right, title, interest, or claim in any such property, when a Duty

Conveyance to state truly the amount of the purchase money

is imposed by this Act on the conveyance thereof, the full purchase or consideration money directly or indirectly paid, or secured, or agreed to be paid for the same, shall be truly expressed and set forth in words at length in the principal Deed, Instrument, or Writing, whereby the property sold shall be conveyed to or vested in the purchaser or in any other person. Provided that if the Deed, Instrument, or Writing be framed in accordance with a form prescribed by any Act or Regulation in force, and shall not contain such purchase or consideration money, then such purchase or consideration money shall be truly expressed and set forth in words at the foot of such Deed, Instrument, or Writing. If the full purchase or consideration money shall not be fully and truly expressed and set forth in the manner above directed, the purchaser and seller shall each forfeit a sum not exceeding five hundred Rupees, and be charged with the payment of five times the amount of the excess of Duty which would have been payable for such Deed, Instrument, or Writing in respect of the full purchase or consideration money, if the same had been duly expressed in such Deed, Instrument, or Writing, beyond the amount of Duty actually paid for the same.

Penalty if person employed to prepare a conveyance inserts a less sum than the true purchase money

Clause 2.—If any person shall knowingly and wilfully insert or set forth in any such Deed, Instrument, or Writing any less amount than the full and true purchase or consideration money directly or indirectly paid, or secured or agreed to be paid for the same, he shall incur the penalties prescribed in the preceding Clause of this Section.

Prosecution only to be by Collector of Stamp Revenue, &c.

LII. No person shall be proceeded against for any offence affecting the Public Revenue under this Act, except at the suit or prosecution of the Collector of the Stamp Revenue of the District or other Officer specially authorized by the Government in that behalf.

Offences cognizable by Magistrate or Justice of the Peace.

LIII. Every offence punishable by this Act may be tried by any Officer exercising the powers of a Magistrate or of a subordinate Magistrate of the 1st Class as defined in the Code of Criminal Procedure or by a Justice of the Peace.

Imprisonment in case of non payment of fine.

LIV. If any person sentenced to a fine under the provisions of this Act shall not pay the fine to which he shall be sentenced, it shall be lawful for the Magistrate or Justice of the Peace who passed the sentence to issue his warrant to levy the amount by distress and sale of the goods and chattels of the party fined, or to sentence the offender to imprisonment until the payment of the fine, or the expiration of a term to be assigned, not exceeding three months, whichever shall first take place.

Reward to informers.

LV. A share not exceeding one-half of every fine imposed and recovered under this Act may be awarded by the Magistrate or Justice of the Peace imposing the fine to the informer.

Interpretation. "Stamp."

"Value."

Bill of Exchange

"Deed."

"Paper."

"Sheet."

LVI. Throughout this Act and the Schedules annexed to it the word "Stamp," except when the contrary shall appear from the context, is used to signify a stamped piece of paper or other stamped material for writing on; and by the "Value" of a Stamp is meant a sum indicated by words or figures duly impressed upon such piece of paper or other material. The term "Bill of Exchange" includes a Hoondee or any other Instrument of a like nature. The word "Deed" includes every Instrument of the nature of a Deed whether under a Seal or not. The word "Paper" includes Parchment, Vellum, or other similar material. The word "Sheet" denotes a stamped paper or other material of the size prescribed by the Governor General in Council under Section IV. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number. Words importing the masculine gender shall include females. The word "month" means a calendar month. The words "British Territories in India" denote the territories vested in Her Majesty by the Statute 21 and 22 Vic., c. 106, entitled "An Act for the better Government of India."

Number. Gender. "Month." "British Territories in India."

LVII. This Act shall come into force on the 1st day of June, 1862. [Not until the 1st January, 1863, in the Straits' Settlements. See Act XXVIII., 1863.]

Commencement of Act

SCHEDULE A.

Containing a specification of the Deeds, Instruments, and Writings which require to be stamped under this Act, and of the proper Stamps for such Deeds, Instruments, and Writings.

	PROPER STAMPS
1. Agreement, or any Minute or Memorandum of an Agreement, not being of the nature of a Bond or other Obligation for the payment of money, or of a Conveyance, or of a Deed of Mortgage, Gift, or Dower, and not being otherwise provided for in this Schedule, whether the same be only evidence of a contract or obligatory upon the parties	1 Rupee
NOTE.—If two or more letters are offered in evidence to prove an Agreement between the parties who shall have written such letters, it will be sufficient if any one of such letters be stamped as an Agreement.	
If the Agreement, or Minute or Memorandum be of the nature of a Bond or other Obligation for the payment of money, or of a Conveyance, or of a Deed of Mortgage, Gift or Dower ...	The same Stamp as prescribed by this Schedule for such Instrument.
2. Agreement for an annual or periodical payment not otherwise charged for in this Schedule	The same Stamp as for a Bond for the amount of ten years' payment or of the total sum secured if less.
3. Agreement, or Minute, or Memorandum for a lease, or of the terms and conditions on which any land, house, or other real property is let, held, or occupied	The same Stamp as for a Lease for the same property on the same terms and conditions.

	PROPER STAMPS.	
Provided that any lease afterwards made of the same land, house, or other real property in pursuance of such Agreement, Minute, or Memorandum, shall be chargeable with a Stamp Duty of 8 Annas only, to be denoted by a Stamp, which shall be affixed to such lease by the Collector of Stamp Revenue of the District upon the production of the Agreement, Minute, or Memorandum bearing the proper Stamp, and not otherwise.		
4. Agreement to cultivate, manufacture, produce, provide, or deliver any article in consideration of advance made—	*Rupees.*	*Annas.*
If the amount advanced do not exceed 50 Rs.	0	1
If it exceed 50 Rs. but do not exceed 100 Rs.	0	2
If it exceed 100 Rs. but do not exceed 200 Rs.	0	4
If it exceed 200 Rs. but do not exceed 500 Rs.	0	8
If it exceed 500 Rs.	1	0
5. Agreement or Contract, or any Minute or Memorandum of an Agreement, made for or relating to the sale or purchase of any Security of the Government of India, Railway Scrip, Share in any Joint Stock Company, or Bill of Exchange to the amount or value of 100 Rupees or upwards	0	1
EXEMPTIONS.		
Agreement or Contract, or any Minute or Memorandum of an Agreement, made for or relating to the sale or purchase of any Security of the Government of India, Railway Scrip, Share in any Joint Stock Company, or Bill of Exchange, if not of the amount or value of 100 Rupees.		

	PROPER STAMPS.
Agreement or Contract, or any Minute or Memorandum of an Agreement, made for or relating to the sale of any goods or Merchandize.	
6. Agreement for the hire of a Steamer for tugging a vessel, if for a single trip within the limits of the Port	8 Annas.
Beyond the limits of the Port	1 Rupee.
7. Agreement for service of personal employment by the month or for any longer period.	
If the amount of monthly salary or wages secured by such Agreement do not exceed in value 5 Rupees	1 Anna.
If the amount so secured exceed 5 Rs. but do not exceed 20 Rs.	4 Annas.
If the amount so secured exceed 20 Rs. but do not exceed 50 Rs.	8 Annas.
In any other case	1 Rupee.
EXEMPTION.	
Agreement for service or personal employment for any period less than a month.	
8. Affidavit or solemn declaration not made for the immediate purpose of being filed, read, or used in any Court of Justice, per sheet ...	1 Rupee.
9. Assignment, if not of the nature specified under the head of Conveyance or Settlement, nor especially exempted—	
In any case where the Assignment is of any interest secured by an original Deed, Instrument, or Writing on a Stamp of a value less than eight rupees	The same Stamp as the original Deed.
In any other case	8 Rupees

	PROPER STAMPS
EXEMPTION. Transfer by mere endorsement of a Bill of Exchange, Promissory Note, or other negotiable Instrument; or of a Bill of Lading and transfer by Assignment of a Policy of Insurance.	
10. Bill of Exchange, Letter of Credit, Draft, Cheque, Promissory Note, Hoondee, or other Order or Obligation for the payment of money not being a Bond, Instrument, or Writing, bearing the attestation of one or more witnesses—	
If payable on demand and bearing the date on which it is made, and if the sum payable exceed twenty rupees	1 Anna

If payable at sight or at any period not exceeding one year after date or sight—

	If drawn singly	If drawn in a set of two, each to be stamped	If drawn in a set of three, each to be stamped
	Rs As	Rs As	Rs As
When not exceeding ... 100 Rupees	0 1	0 1	0 1
When exceeding 100 and not exceeding ... ... 250 „	0 3	0 2	0 1
„ 250 „ ... 500 „	0 6	0 3	0 2
„ 500 „ ... 1,000 „	0 12	0 6	0 4
„ 1,000 „ ... 2,500 „	1 8	0 12	0 8
„ 2,500 „ ... 5,000 „	3 0	1 8	1 0
„ 5,000 „ ... 10,000 „	6 0	3 0	2 0
„ 10,000 „ ... 20,000 „	12 0	6 0	4 0
„ 20,000 „ ... 30,000 „	18 0	9 0	6 0

And for every further 10,000 Rs. or for any part of every further 10,000 Rupees, if drawn singly, 6 Rupees in addition; if drawn in a set of

	PROPER STAMPS.
two, each to be stamped, 3 Rupees in addition; if drawn in a set of three, each to be stamped, 2 Rupees in addition.	
If bearing no date, the same Stamp as if payable at sight, unless any date or period of payment be specified, in which case the same Stamp as prescribed by Article 12 for a Bond of the same amount. If drawn in a set of more than three, each of the set in excess of three to be stamped as required for each one of a set drawn in a set of three.	
If not drawn singly, each of the set shall state that it is drawn in a set of two or three, and shall denote on the face thereof that it is the first, second, or third of the set, as the case may be.	
If payable at a period exceeding one year after date or sight	The same stamp as prescribed by Article 12 for a Bond for the payment of the same amount.
11. Bill of Lading of or for any goods to be exported	4 Annas for a single Bill Acknowledgment, or Instrument, or each part of every set of the same.
Bill of Sale.—See Conveyance and Mortgage.	
12. Bond or other Obligation for the payment either absolutely or conditionally of any definite or certain sum of money, not otherwise charged for or expressly exempted from the payment of Stamp Duty in this Schedule—	*Rupees.* *Annas.*
If for any sum not exceeding ... 25 Rs.	0 2
Above 25 Rs. and not exceeding 50 „	0 4
„ 50 „ ditto 100 „	0 8
„ 100 „ ditto 200 „	1 0
„ 200 „ ditto 300 „	2 0

	PROPER STAMPS	
	Rupees.	*Annas.*
Above 300 Rs. and not exceeding 500 Rs.	4	0
„ 500 „ ditto 700 „	5	0
„ 700 „ ditto 1,000 „	6	0
„ 1,000 „ ditto 2,000 „	10	0
„ 2,000 „ ditto 3,000 „	15	0
„ 3,000 „ ditto 5,000 „	25	0
„ 5,000 „ ditto 10,000 „	35	0
„ 10,000 „ ditto 20,000 „	60	0
„ 20,000 „ ditto 40,000 „	100	0
„ 40,000 „ ditto 60,000 „	125	0
„ 60,000 „ ditto 80,000 „	150	0
„ 80,000 „ ditto 1,00,000 „	200	0
And for every further part of 1,00,000 „	100	0
And for every further 1,00,000 „	200	0
13. Bond or Agreement for a loan made upon the deposit of Title-Deeds or a Note or other Security of the Government of India, Share, or Debenture of any Railway or Joint Stock Company, Bill of Lading, Warrant for goods deposited in a bonded or other warehouse or assignment of any goods with or without a deposit of the acceptance or Promissory Note of the borrower. Provided that no such Agreement is drawn in the form of a Bond or of a Bill of Exchange or Promissory Note, or in any such way as would render it a negotiable Instrument passing by endorsement, for whatever amount, in case the period of such loan shall not exceed one month...	1	0
If such loan is for a period exceeding one month and not exceeding two months	2	0
If such loan is for a period exceeding two months and not exceeding three months ...	4	0
If such loan is for a period exceeding three months	The same Stamp as prescribed by Article 12 for a Bond of the same amount.	

	PROPER STAMPS.
14. Bond or other Obligation concerning respondentia and bottomry	The same Stamp as prescribed by Article 12 for a Bond for the like amount.
15. Bond or other Obligation given as security for the transfer of any Government Security or Stock of any public Company, or for the delivery or accounting for any matter or thing capable of being valued	The same Stamp as prescribed by Article 12 for a Bond for the payment of the amount engaged to be paid or accounted for, or of the value of the thing to be delivered or transferred.
16. Bond or other Obligation for an annual or any periodical payment, not being interest upon any principal sum secured by the Bond or other Obligation, whether for a fixed or for an indefinite period.	The same Stamp as prescribed by Article 12 for a Bond for the payment of a sum equal to ten times the yearly payment, or of the total sum secured, if less.
17. Bond or other Obligation when the amount of the money to be secured is not specified	An optional Stamp —See Section XXVII. of the Act.
When the amount is limited to a certain sum ...	The same Stamp as prescribed by Article 12 for a Bond for the payment of such limited sum.
18. Bond or other Obligation for the due execution of an office or work, and any other Bond not otherwise specially provided for or expressly exempted from the payment of Stamp Duty by this Schedule	An optional Stamp —See Section XXVII. of the Act.
19. Bond or other Obligation taken as collateral security with some Deed or Instrument executed on the Stamp prescribed for a Conveyance or money Bond or as a security for the performance of any other Contract, Covenant or Agreement, not being for the payment of money, the transfer of property, or the satisfaction of any pecuniary demand	The same Stamp as the Deed, Instrument, Contract, Covenant, or Agreement, if of value not exceeding eight Rupees; otherwise a Stamp of eight Rupees.
20. Certificate, that is to say, a document denoting or intended to denote the right or title of the holder thereof, or any person, to any	

	PROPER STAMPS.
Share or Shares or Scrip in any Joint Stock or other Company, or proposed or intended Company; or any Certificate declaring or entitling the holder thereof, or any person, to be or become the proprietor of a Share or Shares or Scrip of or in any such Company	1 Anna.
21. Charter-party, or any Agreement or Contract for the Charter or hiring of any sea-going Ship or Vessel	2 Rupees.
22. Composition Deed, or other Instrument of Composition between a debtor and his creditor	8 Rupees.
23. Conveyance or Deed or Instrument of any kind or description whatsoever, executed for the sale or transfer, for a consideration, of any land, tenement, rent, annuity, or other property, real or personal, movable or immoveable, or of any right, title, or claim to or upon, or interest in, any land, house, rent, annuity, or other property, that is to say, for or in respect of the principal or only Deed, Instrument, or Writing whereby the property sold shall be conveyed to, or otherwise vested in, the purchaser or to some other person by his direction—	
When the purchase or consideration money therein expressed or denoted shall not exceed one hundred Rupees	1 Rupee

					Rupees.	*Annas.*
Above	100	Rs. and not exceeding	200	Rs.	2	0
„	200	„ ditto	400	„	4	0
„	400	„ ditto	800	„	8	0
„	800	„ ditto	1,200	„	12	0
„	1,200	„ ditto	2,000	„	20	0
„	2,000	„ ditto	3,000	„	30	0
„	3,000	„ ditto	4,000	„	40	0

	PROPER STAMPS	
	Rupees.	*Annas.*
Above 4,000 Rs. and not exceeding 5,000 Rs.	50	0
„ 5,000 „ ditto 7,500 „	75	0
„ 7,500 „ ditto 10,000 „	100	0
„ 10,000 „ ditto 20,000 „	150	0
„ 20,000 „ ditto 40,000 „	200	0
„ 40,000 „ ditto 60,000 „	300	0
„ 60,000 „ ditto 80,000 „	400	0
„ 80,000 „ ditto 1,00,000 „	500	0
And for every further 50,000 „	200	0
Or part thereof „	100	0
24. Conveyance when the consideration is an annuity	The same stamp as for a conveyance when the purchase money is equal to ten times the annuity	
25. Conveyance of any kind whatever not otherwise charged, if the value of the property conveyed or of the consideration for the Conveyance be stated or appear on the face of the Conveyance	The same duty as would be charged if a consideration in money equal to such value were expressed in the conveyance as the consideration thereof	
If no value appear on the face of the Conveyance	50 Rupees	
26. Conveyance or Transfer of a share of a Banking Corporation or Joint Stock Company, whether by Deed or Endorsement, when the market value of the Share transferred does not exceed 100 Rupees per share	4 Annas.	
When it exceeds 100 Rupees, and does not exceed 200 Rupees	8 Annas	
When it exceeds 200 Rupees, and does not exceed 300 Rupees	12 Annas	
When it exceeds 300 Rupees, and does not exceed 400 Rupees	1 Rupee.	
And for every 100 Rupees, a further Duty of 4 Annas, and for the conveyance or transfer of every quarter or half of any such Share, a corresponding rate of Duty.		

	PROPER STAMPS.
EXEMPTION.	
All transfers of subscription to any of the Government Loans, or other Government Securities.	
27. CO-PARTNERSHIP—Deed or other Instrument of	8 Rupees.
28. COPY.—Copy or Extract of any Deed, Instrument, or Writing, attested or certified to be a true copy or extract, and furnished for the purpose of being given in evidence in any Civil or Revenue proceeding, or made for the security or use of any person being a party to or taking any benefit or interest immediately under such Deed, Instrument, or Writing	The same Duty as the original when such Duty does not exceed 8 Anns.
If the Duty chargeable on the original exceed 8 Annas, but do not exceed 10 Rupees	1 Rupee
If the Duty chargeable on the original exceed 10 Rupees, but do not exceed 50 Rupees	2 Rupees.
If the Duty Chargeable on the original exceed 50 Rupees	5 Rupees.
NOTE.—Every Copy bearing the proper Stamp which shall at any time be offered in evidence shall be deemed to have been made for that purpose.	
29. Where such copy may be made for the security or use of any person not being a party to, or taking any benefit or interest immediately under the Deed, Instrument, or Writing, per sheet	8 Annas
30. Copy, attested or certified to be a true copy or made for the purpose of being given in evidence in any Civil or Revenue Proceeding, of any Will, Testament, or Codicil, or of any Probate, or Probate Copy of any Will or Codicil, or of any Letter of Administration, or of any confirmation of any Testament, Testamentary or Dative, or of any part thereof respectively ...	1 Rupee.

	PROPER STAMPS.
31. Copy or Extract of any Deed, Instrument, or Writing annexed to any Deed, Instrument, or Writing	The same Stamp as the Deed, Instrument, or Writing from which the copy or extract is made, if of value not exceeding 8 Annas: otherwise 8 Annas per sheet.
32. Copy authenticated or certified, of any record, letter, account, statement, report, or other writing, furnished to any individual from any Government Office, per sheet	8 Annas.
For Copies of Judicial or Revenue Papers given from Courts of Justice, Revenue Offices, &c.	See Schedule B.
EXEMPTION.	
Copy of any paper which any public Officer is required to make or furnish, for which a Stamp is not specially required by this Schedule.	
33. Counterpart of a lease	The Same Stamp as for such lease.
EXEMPTIONS.	
Counterpart of a lease executed by a ryot or other actual cultivator of the soil, provided that no fine or premium be paid as part of the same transaction.	
(*For Madras.*)	
Counterpart of a lease executed between landlord and tenant relative to lands in the Presidency of Madras, subject to the payment of Revenue to Government.	
A counterpart of a lease includes a Kubbulent and the like.	
34. COVENANT.—Any separate Deed of Covenant made on the sale or mortgage of any immoveable property or of any right or interest therein (the same not being a Deed chargeable with *ad valorem* Duty under the head of Conveyance in this Schedule) for the conveyance,	10 Rupees.

	PROPER STAMPS
assignment, surrender, or release of such property, right, or interest, or for the title to or quiet enjoyment, freedom from incumbrance, or further assurance of such property, right, or interest or otherwise by way of indemnity in respect of the same, or for the production of the Title-Deeds, or Muniment of Title relating thereto, or for all or any of those purposes ...	10 Rupees
35. Deed of Gift or Dower, whether to take effect on the instant or at a future period, determinate or indeterminate	The same Stamp as for a Conveyance.
36. Deed of any kind not otherwise charged or expressly exempted from Stamp Duty by this Schedule	1 Rupee.
37. Duplicate, or counterpart of any Deed, Instrument, or Writing of any description whatever, chargeable with Duty under this Act not otherwise charged for or expressly exempted from Stamp Duty under this Schedule ...	The same Duty as the original when such Duty does not exceed 8 ans
If the Duty chargeable on the original exceed 8 Annas, but do not exceed 10 Rupees ...	1 Rupee.
If the Duty chargeable on the original exceed 10 Rupees, but do not exceed 50 Rupees ...	2 Rupees
If the Duty chargeable on the original exceed 50 Rupees	5 Rupees
Provided that such duplicate or counterpart Stamp shall be affixed by the Collector of Stamp Revenue of the District upon the production of the original Deed bearing its proper Stamp and not otherwise.	
38. EXCHANGE.—Any deed, Instrument, or Writing whereby any real property shall be conveyed or surrendered in exchange for other property	The same Stamp as for a Conveyance

	PROPER STAMPS.
39. LEASE.—Any lease made in perpetuity or for a term of years, or period determinable with one or more lives, or otherwise contingent, in consideration of a sum of money paid in the way of premium, fine, or the like, if without rent	The same Stamp as for a Conveyance or Deed of Sale for a sum of the amount of such consideration.

40. Any lease of any land, house, or other real property at a rent, without any payment of any sum of money by way of fine or premium—

Where the rent is calculated for a whole year	When the lease is for a period not exceeding one year.		When the lease is for a period exceeding one year.	
	Rs.	As.	Rs.	As.
shall not exceed in value 24 Rupees	0	4	0	8
Exceeding 24 Rupees, but not exceeding 50 Rs.	0	8	0	12
„ 50 „ „ 100 „	0	12	1	0
„ 100 „ „ 250 „	1	0	2	0
„ 250 „ „ 500 „	2	0	4	0
„ 500 „ „ 1,000 „	4	0	8	0
„ 1,000 „ „ 2,000 „	8	0	16	0
„ 2,000 „ „ 4,000 „	16	0	32	0
„ 4,000 „ „ 6,000 „	24	0	48	0
„ 6,000 „ „ 10,000 „	40	0	80	0
„ 10,000 „ „ 25,000 „	100	0	200	0
„ 25,000 „ „ 50,000 „	200	0	400	0
and for every additional 25,000, or for any part of every additional 25,000 Rupees	100	0	200	0

41. Any lease of any land, house, or other real property at a rent for an indefinite term, and without any payment of any sum of money by way of fine or premium	The same Stamp as for a lease for a period exceeding one year.
42. Any lease of any land, house, or other real property stipulating for a rent, granted in consideration of a fine or premium.	A Stamp of value equal to the joint value of the Stamps for a Conveyance in consideration of the fine and a lease for the rent.

&c. —

	PROPER STAMPS.
EXEMPTIONS.	
Any lease executed to a ryot or other actual cultivator; provided that no fine or premium be paid as part of the same transaction.	
(*For Madras.*)	
Every lease or other engagement executed between landlord and tenant relative to land in the Presidency of Madras, subject to the payment of Revenue to Government.	
43. Letter, or Power of Attorney, not being of the kinds provided for in Schedule B ...	*Rupees.* 4 *Annas.* 0
If the Letter or Power of Attorney be for the performance of one act only, and the value of the property to be dealt with be expressed in the Letter or Power and do not exceed 500 Rupees. [By Act XXVI., 1867, s. 5, a clause is added as to powers of Attorneys for voting at meetings of shareholders.]	1 0
44. Warrant of Attorney to confess judgment, or Cognovit, unless taken as collateral security for the payment of any sum of money secured by another Instrument stamped with an *ad valorem* Stamp under this Act	The same Stamp as for a bond.
If given for securing any sum of money exceeding 500 Rupees, for which the person giving the same shall then be in actual custody under an arrest on mesne process or in execution	*Rupees.* 4 *Annas.* 0
If given as such collateral security as above-mentioned	5 0
NOTE.—For Wakalutnamahs, Mooktarnamahs and other powers required to be filed for the conduct of suits or proceedings of any kind pending before the Courts of Justice or before the Revenue Authorities	See Schedule B.
45. Letter of license from a creditor to his debtor	*Rupees.* 8 *Annas.* 0

	PROPER STAMPS.
46. MORTGAGE.—Any Deed of Mortgage or Conditional Sale, Assignment, Pledge, or Hypothecation, or of any acknowledgment in the nature of a Mortgage, Conditional Sale, Pledge, or Hypothecation of or in respect of any immoveable property with or without possession given or of any personal property without possession given, intended as a security for money due or to be lent thereupon; also any Deed or Contract accompanied with a deposit of title deeds to any property, where the same may be made as security for payment of money due or lent at the time	The same Stamp as for a bond for the payment of the amount due or lent.
47. Deed of Mortgage or Conditional Sale, Assignment, Pledge, or Hypothecation, or of any Acknowledgment in the nature of a Mortgage, Conditional Sale, Assignment, Pledge, or Hypothecation given for a loan or advance made on the deposit of any personal property ...	The same Stamp as for a Promissory Note.
48. Deed of Mortgage or Conditional Sale, Assignment, Pledge, or Hypothecation with or without possession given of any immoveable property or of any right, title, or interest therein, intended as security for the transfer of a Government Security, or for the payment of an annuity for a fixed period, or for the delivery at a future date of any matter or thing capable of being valued	The same Stamp as for a Bond for the payment of the total amount assured, or for the *bona fide* value.
49. Deed of Mortgage or Conditional Sale, Assignment, Pledge, or Hypothecation with or without possession given of any immoveable property, or of any right, title, or interest therein, given for the security of an annuity for an indefinite period, such as a Life Annuity ...	The same Stamp as for ten times the annual payment.
Where it may be stipulated that the amount secured by such Mortgage shall not exceed a certain sum	The same Stamp as for a Deed of Mortgage of such limited sum.

	PROPER STAMPS
Where the total amount secured by the Mortgage is unlimited	An optional Stamp—See Section XXVII. of the Act
50. Deed of Mortgage where a Bond shall have been already taken for the amount secured, or where, from any other cause, the Mortgage shall act merely as a collateral security to some other transaction in which an Instrument requiring a Stamp has been executed	The same Stamp as for the Bond or other Instrument if of value not exceeding eight Rupees, otherwise a Stamp of eight Rupees
NOTE.—Where there are more Deeds than one required to execute the Mortgage in the manner desired by the parties, then for every other Deed than the principal Deed; provided the original Deed has been duly stamped ...	The same Stamp as for the principal Deed if of value not exceeding eight Rupees, otherwise a Stamp of eight Rupees
EXEMPTION.	
Letter of Hypothecation accompanying a Bill of Exchange.	
51. MORTGAGED PROPERTY—Re-conveyance of	The same Stamp as for an Assignment
52. MORTGAGED PROPERTY—Release of an equity of redemption of	The same Stamp as for a Conveyance.
53. NOTARIAL ACT—Any Notarial Act whatsoever not otherwise charged in this Schedule	*Rupees.* 2 *Annas* 0
54. Partition by private Agreement, or made by a Public Officer, of an estate or property, real or personal, or in the nature of separation of brotherhood, as amongst Hindoos, for each sharer's copy of the Deed of partition—	*Rupees* *Annas*
When the sharer's portion does not exceed one hundred rupees in value	0 8
Exceeding 100 Rs. and not exceeding 200 Rs.	1 0
„ 200 „ ditto 400 „	2 0
„ 400 „ ditto 600 „	4 0
„ 600 „ ditto 800 „	0
„ 800 „ ditto 1,000 „	8 0

	PROPER STAMPS.
And for every additional four hundred Rupees, or part thereof	*Rupees.* 2 *Annas.* 0
When the subject of the partition, consisting either wholly or in part of other property than money, and money not being part of such subject is paid, or agreed to be paid for the purpose of compensating any difference from just proportion in the partition actually made of that subject ...	A Stamp of value equal to the joint value of the Stamp which would have been required had the subject of partition been actually divided with the just proportion and of the Stamp for a Conveyance or Deed of Sale for a sum equal to the amount so paid, or agreed to be paid, for the purpose of compensating the difference therefrom.
55. Policy of Insurance, or other Instrument by whatever name the same shall be called, whereby an Insurance shall be made upon any life or upon any event depending upon any life or against loss or damage by fire upon any building or property, not of the description mentioned in Article 56—	
For every sum of one thousand rupees and also for each and every fractional part of one thousand Rupees	*Rupees.* 0 *Annas* 8
56. Policy of Insurance of any ship, vessel, sloop, lighter boat, or the like, or of any goods or property on board, or upon the freight of any ship, vessel, sloop, lighter boat, or the like, or upon any other interest relating thereto, or upon any voyage where the premium shall not exceed two per centum on the sum insured.	

	If executed singly	If executed in sets of two, each to be Stamped
	Annas	*Annas.*
If the whole sum insured shall not exceed one thousand Rupees	8	4

	PROPER STAMPS
If the sum insured exceed one thousand Rupees, for every one thousand Rupees, eight annas if executed singly; and if executed in a set of two, four annas for each number.	
Where the premium shall exceed two per cent. on the sum insured, if the whole sum shall not exceed one thousand Rupees	If executed singly. *Rupees.* 1 — If executed in sets of two, each to be stamped. *Annas.* 8
If the sum insured exceed one thousand Rupees, for every one thousand Rupees and also for any fractional part of one thousand Rupees whereof the same shall consist, one Rupee if executed singly; and if executed in a set of two eight annas for each number.	
If drawn in a set of more than two, each of the set in excess of two to be stamped as required for each one of a set drawn in a set of two.	
NOTE.—A Letter of cover or engagement to issue a Policy of insurance does not require a Stamp. Provided that, unless such letter or engagement bear the full Stamp prescribed for a Policy of Insurance, no money shall be paid or payable upon it, nor shall it be filed, exhibited, or recorded in any Court in India otherwise than to compel the delivery of a Policy on the prescribed Stamp.	
Promissory Note.—See Bill of Exchange.	
57. Promissory Note for the payment of any sum by instalments, or for the payment of several sums at different dates, so that the whole of the money to be paid shall be definite and certain	The same Stamp as for a bond for the payment of the whole amount.
58. Protest of any Bill of Exchange or Promissory Note for any sum of money ...	*Rupees.* 2 *Annas.* 0

	PROPER STAMPS.	
	Rupees.	*Annas.*
59. Protest of any Commander or Master of a vessel	2	0
60. Protest, Notice of intention of—of any Commander or Master of a vessel	0	8
61. Receipt or discharge given for the payment of money or in acquittal of a debt paid in money or otherwise, when the sum received, discharged, or acquitted, exceeds twenty Rupees	0	1

GENERAL EXEMPTIONS.

Letter sent by post acknowledging the arrival of a Currency or Promissory Note, Bill of Exchange, or any Security for money.

Receipt or discharge for the rent of land paying Revenue to Government, granted to any ryot or other actual cultivator for the rent of land cultivated by him.

Receipt or discharge written upon any Promissory Note, Bill of Exchange, Draft, or Order for the payment of money duly stamped.

Receipt or discharge written upon or contained in a Mortgage Deed, or other Security, or a Deed of Conveyance, Settlement, Personal Bond or other Instrument duly stamped, acknowledging the receipt of the consideration money therein expressed or the receipt of any principal money, interest, or annuity thereby charged.

Receipt given for money deposited in any Bank, or in the hands of any Banker, to be accounted for whether with interest or not, provided the same be not expressed to be received of or by the hands of any other than the person to whom the same is to be accounted for. Provided always that this exemption shall not extend to a receipt or acknowledgment for any sum

	PROPER STAMPS.
paid or deposited for or upon a letter of any allotment of a share, in respect of a call upon any scrip or share of or in any Joint Stock or other Company or proposed or intended Company, which last-mentioned receipt or acknowledgment, by whomsoever given, shall be liable to the Duty charged upon a receipt.	
62. Release to an Executor or Trustee from his trust	*Rupees.* *Annas.* 10 0
63. Schedule annexed or referred to in any Agreement, Lease, Bond, Deed, or other Instrument, per sheet	0 8
64. Settlement, Marriage Settlement, &c., namely, any Deed or Instrument, whereby any sum of money, or any Government Security or other property, real or personal, shall be settled, or agreed to be settled, upon or for the benefit of any person, in any manner whatsoever ..	The same Stamp as prescribed by Article 12 for a Bond for the payment of the amount or value settled or agreed to be settled; or in cases in which the value shall be indeterminate, an optional Stamp—SeeSectionXXVII of the Act.
65. Shipping order for or relating to the conveyance of any goods on board of any ship or vessel	*Rupees.* *Annas.* 0 1
66. WARRANT. Bonded Warehouse ...	0 8
GENERAL EXEMPTIONS.	
Any Deed, Instrument, or Writing of any kind made or executed by or on behalf of the Government by any Government Board, Commission, Court, Officer, or Agent.	
NOTE.—The foregoing exemption does not extend to any Deed, Instrument, or Writing executed by a Court of Wards, Local Agent, or Officer acting under the authority of any such Court or Agent, or by a Municipal Commissioner, or by any Administrator-General or a Receiver appointed by any Court; neither	

PROPER STAMPS.

does it extend to a sale made for the recovery of an arrear of revenue or rent, or in satisfaction of a decree or order of Court, in any of which cases the purchaser shall be required to pay, along with the purchase-money, the price of the requisite Stamp, or else provide such Stamp, and shall receive from the Officer conducting the sale a Deed of Sale executed on the proper Stamp.

Renunciation of land executed by a Ryot or other actual cultivator of the land to his landlord.

Will, Testament, and the like, together with a Deed merely declaratory of trust or appointment or otherwise, in execution of powers, or pursuant to any previous Settlement, Deed, or Will.

NOTE. — (*a.*) Any Deed, Instrument, or Writing required by the foregoing Schedule to be stamped, may be written on one or more Stamps, if the value of the Stamps used amount to the value required by the Schedule.

(*b.*) When of several Deeds, Instruments, or Writings, a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed. In any case however, where there are more Deeds than one, every other Deed than the principal requires the same Stamp as the principal Deed, if of value not exceeding eight Rupees (which shall be the maximum Stamp for collateral Deeds), and every such collateral Deed shall specify by its contents which other is the principal Deed by which the Conveyance has been effected, certifying that it is executed on the proper Stamp.

SCHEDULE B.

Referred to in Section XXX. of the Act, containing the Specification of Duties chargeable on Law Papers. [See Act XXVIII., 1867, s. 6, which substitutes new matter for this Schedule.]

	PROPER STAMPS.	
	Rupees.	*Annas*
Application.—See Razeenamah.		
1. Application presented to the Collector of Customs at any Presidency Town, and application presented to the Municipal Commissioners, or to any Magistrate, or Justice of the Peace, under Act XIV. of 1856 (*for the Conservancy and Improvement of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*)	0	1
2. Bail or Security Bond, or other Obligation, whether of specified amount, or with a penalty of a specific sum of money, or of indefinite amount, when taken by, or by order of, any Court of Justice, or by any Revenue Authority	0	8
EXEMPTION.		
Bail or Bonds in Criminal cases, Recognizances to prosecute or give evidence, and personal recognizances for appearance or otherwise.		
3. Certificate granted under Act XXVII. of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*) if the debt or other property in respect to which the Certificate is granted is sworn not to exceed 500 Rupees	4	0
If exceeding 500 Rupees, but not exceeding 1,000 Rupees	8	0
And for every additional 1,000 Rupees or any part of every additional 1,000 Rupees ...	4	0
The party to whom such Certificate is granted,		

	PROPER STAMPS.	
or his heir or representative shall, after the expiration of twelve months from the date of such Certificate, and thereafter whenever the Court which granted such Certificate shall require him so to do, file a statement of all moneys recovered or realized by him under such Certificate, and if the moneys so recovered or realized shall exceed the amount of the debts or other property as sworn to by the person to whom such Certificate is granted, the Court may cancel the Certificate and order such person to take out a fresh Certificate on the Stamp prescribed by this Article for such enhanced amount. In default of furnishing such statement within the time allowed, the Court may cancel the Certificate.		
4. Copy of Decree if passed in any Court below the Sudder Court or in any Revenue Court in any suit in which the value of the claim amounts to fifty Rupees, or in any regular appeal ...	*Rupees* 1	*Annas.* 0
If passed in the Sudder Court in any suit or appeal	4	0
5. Copy of a Judgment or Order, not being a Decree, if passed by a Court below the Sudder Court, or in any Revenue Court	0	8
If passed by the Sudder Court	1	0
If the Judgment be translated into any other language, application for a copy of the translation may be made on unstamped paper, and a copy of the translation may be given in addition to or in place of the copy of the Judgment, and shall bear the same Stamp.		
EXEMPTION.		
Copy of any Judgment, Decree, or Order, if passed otherwise than on appeal in any Court below the Sudder Court in any suit, or in		

	PROPER STAMPS
relation to any suit, or in any Revenue Court, in which the value of the claim does not amount to fifty Rupees when such copy is taken out of the Court making the same.	
6. Copy of any Revenue or Judicial Proceeding or Order not provided for in Article 5, or falling under the exemption to that Article, or Copy of any Account, Statement, Report, or the like, taken out of any Civil or Criminal Court or any Revenue Court or Office for use or reference, or when left on Proceedings in place of the original withdrawn—per sheet ...	*Rupees* 0 *Annas* 8
7. Copy of any Deed, Instrument, or Writing, stamped in accordance with Schedule A annexed to this Act, when left on Proceedings in place of the original withdrawn	The same Stamp as the original when such Stamp does not exceed 8 annas, otherwise a Stamp of 8 annas per sheet.
EXEMPTION.	
Copy of any such Deed, Instrument, or Writing when the original does not require a Stamp under the said Schedule A.	
Letters of Administration.—See Probate.	
8. Mooktarnamah, Wakalutnamah, and other power, filed or presented for the conduct of any case in any Court of Justice, or before any Revenue Authority—	
When presented to the Sudder Court ...	*Rupees.* 2 *Annas.* 0
When presented to the Board of Revenue or other Chief Controlling Revenue Authority ...	2 0
When presented to a Commissioner of Revenue, or to a Commissioner of Customs, not being the Chief Controlling Revenue Authority	1 0
When presented to any Court, Civil or Criminal, other than the Sudder Court, or to any Collector or other Revenue Officer ...	0 8
EXEMPTIONS.	
Mooktarnamahs executed by an Officer or Soldier of the Army.	

	PROPER STAMPS	
No Stamp is required where Counsel is admitted in any case by any Criminal Court to appear on behalf of a prisoner without a written Mooktarnamah.		
9. Petition of appeal not being from an Order rejecting a plaint, or from a Decree or Order having, by any law, the force of a Decree; and petition or application presented to any Civil Court, shall be written upon Stamp Paper, of the following value, namely—		
	Rupees.	*Annas.*
When presented to the Sudder Court ...	2	0
When presented to any Court below the Sudder Court	0	8
SPECIAL RULE FOR BENGAL.		
10. Petition of Appeal to the Board of Revenue or other Chief Controlling Revenue Authority...	2	0
Any other petition or application to the Board of Revenue or other Chief Controlling Revenue Authority...	1	0
Petition or application not falling within any of the other provisions, or of the exemptions of this Schedule, presented to any other Criminal Court, or to any other Revenue Office	0	8
GENERAL EXEMPTIONS.		
Petition or application presented to any Moonsiff's Court, or to any Cantonment Joint Magistrate sitting as a Court of Civil Judicature, under Act III. of 1859 (*for conferring Civil jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registrars of Deeds*), or to any Court of Small Causes constituted under Act XLII. of 1860 (*for the establishment of Courts of Small Causes beyond the Local limits of the jurisdiction*		

	PROPER STAMPS.
of the Supreme Courts of Judicature established by Royal Charter), in relation to any suit or case of an amount or value less than fifty Rupees, or to a Collector or Deputy Collector in relation to any suit or case of the same amount or value tried under Act X. of 1859 (*to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal*).	
Application for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of any exhibit.	
Petition of appeal presented to a Magistrate against the Chowkeedary assessment.	
Communication made to a Magistrate in regard to Police matters not intended for record.	
Petition to a Collector or Officer making a settlement, relating to matters connected with the assessment of lands, the ascertainment of rights, or to any other matter affecting the settlement of the Government Revenue on land, if presented pending the formation of such settlement.	
Petition to a Board or Commissioner of Revenue relating to the same.	
Petition, application, charge, or information respecting any crime or offence. Petition from any prisoner, convict, or other person in duress, or under restraint of the Court or its Officers.	
EXEMPTION FOR THE PRESIDENCIES OF MADRAS AND BOMBAY.	
No petition or application to the Revenue Authorities need be presented on Stamp Paper, except as prescribed in the Special Rule given at the close of this Schedule with respect to	

	PROPER STAMPS.	
suits cognizable by Collectors in the Presidency of Bombay.		
11. PLAINT OR APPEAL.—Petition of, in suits and appeals not otherwise provided for, instituted in any Civil Court not within the local limits of the jurisdiction of the Courts established by Royal Charter, for the recovery of any sum of money, or to obtain possession of any interest, matter or thing—		
If the amount or value of the property claimed does not exceed 16 Rs.	*Rupees.* 1	*Annas.* 0
Above 16 Rs. and not exceeding 32 Rs.	2	0
„ 32 „ „ 64 „	4	0
„ 64 „ „ 150 „	8	0
„ 150 „ „ 300 „	16	0
„ 300 „ „ 800 „	32	0
„ 800 „ „ 1,600 „	50	0
„ 1,600 „ „ 3,000 „	100	0
„ 3,000 „ „ 5,000 „	150	0
„ 5,000 „ „ 10,000 „	250	0
„ 10,000 „ „ 15,000 „	350	0
„ 15,000 „ „ 25,000 „	500	0
„ 25,000 „ „ 50,000 „	700	0
„ 50,000 „ „ 1,00,000 „	1,000	0
„ 1,00,000 „	2,000	0
If the suit be instituted in a Military Court of Requests, or in the Court of a Cantonment Joint Magistrate under Act III. of 1859, and the amount or value claimed do not exceed 8 Rupees. [Amended by Act XVIII., 1865, s. 3.]	0	4
If it exceed 8 Rupees, but do not exceed 16 Rupees	0	8
If it exceed 16 Rupees, but do not exceed 32 Rupees	1	0
If it exceed 32 Rupees...	The same Stamp as for a suit in any other Court.	

	PROPER STAMPS.
In suits for possession instituted under Section XV., Act XIV. of 1859	A Stamp of one-fourth the value prescribed in the foregoing scale.

NOTE.—(*a.*) In suits for lands paying Revenue to Government not situate within the Presidencies of Madras and Bombay, if forming one entire Mehal, or a specific portion thereof with a defined jumma subject to revision, the value shall be assumed at the amount of the annual jumma payable to Government on account of the Mehal or portion thereof as aforesaid; and where the land has been assessed in perpetuity, at three times the amount of the annual jumma.

(*b.*) Within the Presidency of Madras, in suits for land paying Revenue to Government, the value of the property shall be assumed at the amount of the annual aggregate produce of the land computed as payable by the dependent Talookdars, Under-Farmers, and Ryots on account of the year in which the suit may be preferred.

(*c.*) Within the Presidency of Bombay, in suits for land paying Revenue to Government, the value of the property sued for shall be calculated at the amount of the annual assessment.

(*d.*) In suits for lands exempt from the payment of Revenue the value shall be calculated at eighteen times the aggregate annual rent payable by the Ryots or other Under-tenants of the land.

(*e.*) In suits instituted for houses, gardens, and other things of value, real or personal, not of the descriptions above specified; as well as for any interest in land paying Revenue to Government or for any other right or thing

	PROPER STAMPS.
not capable of valuation under the above rules, the amount shall be computed according to the estimated selling price, or when no such estimate can be made, at the sum at which the plaintiff shall estimate the value of his suit; and suits for damages or compensation for injury sustained, and the like, shall be valued at the amount claimed by plaintiff.	
(*f.*) If an appeal or plaint, which shall have been rejected by the Lower Court on any of the grounds mentioned in the Code of Civil Procedure, shall be ordered to be received, or if a suit shall be remanded in appeal for a second decision by the Lower Court, the Appellate Court shall grant to the Appellant a certificate, authorizing him to receive back from the Collector the full amount of Stamp Duty paid on the petition of appeal.	
SPECIAL RULE FOR THE PRESIDENCY OF BENGAL.	
(*g.*) In suits instituted in the Courts of Collectors and Deputy Collectors under Act X. of 1859, for the recovery of arrears of Government Revenue or rent of land paying Revenue to Government, or of money in the hands of an Agent of such land, the statement of claim shall be written on paper bearing a Stamp of one-fourth the value prescribed for suits instituted in the Civil Courts, and in all other suits instituted in the Courts of Collectors and Deputy Collectors under the said Act relating to lands paying Revenue to Government the statement of claim shall be written on paper bearing a Stamp of the value of 8 annas.	

	PROPER STAMPS.
12. Probate or Letters of Administration granted by any Court, or Certificate granted under Regulation VIII., 1827, of the Bombay Code (*to provide for the formal recognition of Heirs, Executors, and Administrators, and for the appointment of Administrators and Managers of property by the Courts*), or under Act XL. of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*	*Rupees.* 4 *Annas.* 0
13. Razeenamah, Rufanamah, Soolunamah, or the like, that is to say—	
Any written application whereby, or according whereunto, a suit pending in a Court of Civil Judicature shall be adjusted, or be capable of adjustment, without an award of the presiding Judge or other Officer	To be charged as in Petitions where Petitions are required to bear a Stamp.

SPECIAL RULE FOR THE PRESIDENCY OF BOMBAY.

Suits cognizable before Collectors under the operation of Chapter VIII., Regulation XVII., 1827, of the Bombay Code (*for the territories subordinate to Bombay, prescribing Rules for the assessment and realization of the Land Revenue, defining the relative rights in the Land and its produce of the Government and the subject, of the superior holder and the tenant; vesting the Collector with Judicial powers in cases regarding land, and its rent and produce, and declaring the circumstances under which exemption from the payment of Land Revenue is to be enjoyed*), as modified by Act XVI. of 1838, shall be subject to the same rules in regard to Stamps as are in force for the Courts of Civil Judicature.

	PROPER STAMPS
GENERAL RULE.—If the subject matter of any plaint, written statement, petition, or copy of a decree or order cannot be conveniently comprised within one Stamp Paper of the value prescribed by this Schedule, one or more additional pieces of paper may be used bearing a Stamp of the value required for Petitions. This Rule does not apply to copies of Judgments; any additional piece of paper required for such copies do not require to be stamped.	

Amended by Act XXIII., 1862, and Act XXVII., 1863.

By Act XXVI., 1867, an addition is made to Article 43 of Schedule A; a new Schedule B is substituted for the above Schedule B, and Sections 1, 5, 6 and 7 are to be read with and taken as part of the above Act.

By Act XX., 1862, reciting doubts as to its applicability to the High Court, Calcutta, its operation is suspended as respects that High Court.

CUSTOMS DUTIES.

ACT NO. XI. OF 1862.

[*Received the assent of the G. G. on the 23rd April*, 1862.

Recites expediency of amending the Customs Duties—

1. Duties on exports and imports by sea to be as per Schedules annexed in lieu of duties under Act VII., 1859; Act XXIII., 1859; and Act X., 1860; but no alteration to be made in duties on salt and opium.

Schedule A. Duties on Imports into any Indian port not being a free port.

Schedule B. Duties on exports from any Indian port not being a free port.

An Act to amend Act X. of 1860 (to amend Act VII., 1859, to alter the Duties of Customs on goods imported or exported by Sea).

Schedules repealed by Act XVII., 1865, and new ones substituted. That Act was repealed by the present Customs Duties, Act XXV., 1865.

GOVERNMENT OF ARRACAN AND TENASSERIM.

ACT NO. XII. OF 1862.

[*Received the assent of the G. G. on the 23rd April*, 1862.

Recites the union of Arracan and Tenasserim with Pegu and Martaban under one Commmissioner, and the inexpodiency of continuing the functionaries under the control, &c., of the Sudder Dewanny Adawlut and Nizamut and Board of Revenue.

1. Repeals Act II. of 1835, as regards Arracan and Tenasserim, except as to pending Causes.

An Act to repeal Act II. of 1835, so far as it relates to the Provinces of Arracan and Tenasserim.

Preamble.

Whereas the Provinces of Arracan and Tenasserim have been united with the Provinces of Pegu and Martaban in one general administration under a Chief Commissioner of British Burmah, and it is no longer expedient that the functionaries who are or may be appointed in the said Provinces should be under the control and superintendence of the Court of Sudder Dewanny and Nizamut Adawlut, or of the Board of Revenue, it is enacted as follows:

Repeal of Act II. of 1835, as regards Arracan and Tenasserim.

I. So much of Act II. of 1835 as relates to the said Provinces of Arracan and Tenasserim is hereby repealed; provided that any appeals or other matters relating to the said Provinces, and now pending before the Court of Sudder Dewanny and Nizamut Adawlut, or before the Board of Revenue, shall be heard and determined as if this Act had not been passed.

Proviso.

SILVER AND COPPER COINAGE.

ACT NO. XIII. OF 1862.

[*Received the assent of the G. G. on the 23rd April*, 1862.

Recites the expediency of establishing a new Silver and Copper Coinage.

1. Repeals from 1st November, 1862, so much of Acts XVII., 1835, as provides that only the silver coins therein mentioned shall be coined, &c., and that they shall bear the words "The East India Company"; also Act XXXI., 1837; Act XXII., 1844; and XI., 1854, except as to coin already issued.

2—4. Directs issue (except for Straits' Settlements) of a rupee, half rupee or eight anna piece, quarter or four anna piece, and eighth of a rupee or two

anna piece, to be the only silver coins, and of a double pice or half anna piece or quarter of an anna, half pice or eighth of an anna, and a pie or one-third of a pice or twelfth of an anna to be, &c.; (3) the silver coins of the same proportionate weights and standard; and (4) the copper coins of the same weights as under the repealed Act and as stated.

5. Directs the Queen's head and name to be put on the obverse, and the name of the coin, &c., on the reverse.

6. Authorizes the Governor General in Council to make and issue the coinage with the above or other process.

7, 8. Makes the rupee and half rupee a legal tender in all engagements if not reduced more than two per cent., and not clipped, &c., and (8) the quarter rupee and eighth rupee legal tenders for fractions of a rupee on the same condition.

9. Makes the Copper coins legal tenders according to their assigned values for fractions of a rupee only, and in the Straits' Settlements for fractions of a dollar as specified.

An Act to provide for a new Silver and a new Copper Coinage.

Preamble.

Whereas it is expedient to provide for a new Silver and a new Copper Coinage, it is enacted as follows:

Repeal of Acts.

I. From the First day of November, 1862, so much of the 1st and 2nd Sections of Act XVII. of 1835 (*relating to Gold and Silver Coinage*), as provides that only the Silver Coins therein mentioned shall be coined at the Mints within the Territories of the East India Company, and that such Coins shall bear on the reverse the words "The East India Company": also Act XXXI. of 1837 (*relating to Coinage*), Act XXI. of 1838 (*relating to the Silver Coin*), Act XXI. of 1835, Act XXII. of 1844, and Act XI. of 1854 (*relating to the Copper Coin*), shall be repealed, except as to any Act already done or Coin already coined or issued under the same.

Description of Coins.

II. From the First day of November, 1862, except as provided by Act VI. of 1847 (*for establishing a Copper Currency in the Settlements of Penang, Singapore, and Malacca*), in respect of Cents, half Cents, and quarter Cents, no Silver or Copper Coins, except those mentioned below, shall be coined at the Mints in British India—

Silver Coin.

A Rupee to be called the Government Rupee.

A Half Rupee.

A Quarter Rupee or Four Anna Piece.

An Eighth of a Rupee or Two Anna Piece.

Copper Coin.

A Double Pice or Half Anna.

A Pice or Quarter Anna.

A Half Pice or one-eighth of an Anna.

A Pie, being one-third of a Pice, or one-twelfth of an Anna.

III. The Rupee so coined shall be of the same weight and standard as those provided for the Company's Rupee by the said Act XVII. of 1835, that is to say, the weight shall be 180 grains Troy, and the standard as follows:—$\frac{11}{12}$th or 165 grains of pure Silver; $\frac{1}{12}$th or 15 grains of Alloy. The other Silver Coins shall be of proportionate weight, and of the same standard.

Weight and Standard of Silver Coins.

IV. The Copper Coins so coined shall be of the weight prescribed for Coins of the same denominations respectively by Acts XXI. of 1835, and XI. of 1854, that is to say:—

Weight of Copper Coins.

The Double Pice shall weigh 200 grains Troy.

The Pice	„	„	100	„
The Half Pice	„	„	50	„
The Pie	„	„	33$\frac{1}{3}$	„

V. Until the Governor General in Council shall otherwise order under the power hereinafter reserved, the Silver and Copper Coins so coined shall bear on the obverse the likeness and the name of Her Majesty Queen Victoria, and the inscription "Victoria Queen," and on the reverse, the designation of the Coins in English, filled by the word "India," with such date and embellishments on each Coin as the Governor General in Council shall from time to time direct.

Inscriptions on Coins.

VI. It shall be lawful for the Governor General in Council, from time to time, to direct the coining and issuing of all Coins authorized by this Act, and to prescribe, in lieu of the likeness and inscription as heretofore prescribed, such other devices and inscriptions and embellishments for all or any of the Coins hereby authorized as, by an order in Council to be published in the Official Gazette, he may direct.

Governor General in Council may order other devices, &c.

VII. The said Rupee and Half Rupee shall be a legal tender in payment or on account of all engagements whatever, provided the Coin shall not have lost more than two per cent. in weight, and provided it shall not have been clipped or filed, or have been defaced or diminished otherwise than by use.

Rupee and Half Rupee to be legal tender.

VIII. The Quarter Rupee and Eighth of a Rupee shall be legal tender only for the fractions of a Rupee, subject to the same provisions as in the last preceding Section mentioned.

Quarter and Eighth Rupee, how to be legal tender.

IX. The Double Pice shall be a legal tender for a thirty-second part of a Rupee or for half an Anna.

Copper Coin how to be legal tender.

The Pice for a sixty-fourth part of a Rupee, or for one-fourth of an Anna.

The Half Pice for a hundred-and-twenty-eight part of a Rupee, or for one-eighth of an Anna; and the Pie, one-third of a Pice, for a hundred-and-ninety-second part of a Rupee, or the twelfth of an Anna.

Provided that none of the said Copper Coins shall be a legal tender, except for the fractions of a Rupee, and except in the Settlement of Prince of Wales' Island, Singapore, and Malacca for the fractions of a Dollar, at the rate fixed by Act XVII. of 1855, namely the Pice for a hundred-and-fortieth part of a Dollar; the Double Pice for a seventieth part of a Dollar; the Pie for a four-hundred-and twentieth part of a Dollar; and the Half Pice for a two-hundred-and-eightieth part of a Dollar.

X. All Silver Coin of the weight and standard specified in the said Acts XVII. of 1835, and XXI. of 1838, issued since the passing of those Acts respectively and before the First day of November, 1862, and declared by those Acts respectively to be a legal tender, and all Copper Coins of the weight specified in the said Acts XXI. of 1835, XXII. of 1844, and XVII. of 1855, issued since the passing of those Acts respectively and before the First day of November, 1862, and declared by those Acts respectively to be a legal tender, shall continue to be a legal tender for the amounts thereof respectively, subject to the same conditions and provisions as under those Acts respectively, anything in this Act contained notwithstanding.

Coin coined under former Acts still to be legal tender.

Existing Acts to continue in force.

XI. All Acts and Laws in force in British India at the time of the passing of this Act respecting the Queen's Coin, or the Silver or Copper Coin current in British India, and not repugnant to the provisions of this Act, shall be and continue in full force and effect, and shall be applied to the Silver and Copper Coin to be coined in pursuance of this Act.

Definition of British India.

XII. The words "British India" in this Act denote the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic., c. 106, entitled "An Act for the better Government of India."

LIMITATION OF SUITS.

ACT NO. XIV. OF 1862.

[*Received the assent of the G. G. on the 23rd April* 1862.

Recites expediency of postponing the operation of Act XIV., of 1859, as limits the time for bringing actions for retail bills.

1. Annuls Act XIV., 1859, as to actions pending or that may be brought before 1st January, 1865, for recovery of retail bills due before the passing of the said Act.

An Act to amend Act XIV. of 1859 (to provide for the limitation of suits).

Obsolete.

CODE OF CRIMINAL PROCEDURE.

ACT NO. XV. OF 1862.

[*Received the assent of the G. G. on the 1st May*, 1862.

Recites expediency of amending the Code in regard to its extension to non-regulating territories.

1. On extension of the Code to non-regulation territories, the Local or General Government may vest in the Chief Executive Officer of the District in Criminal matters, power to try all offences not punishable with death, and to pass sentence of not exceeding seven years' imprisonment with fine, &c.

2. Invests in Sudder Courts when consisting of only one Judge all the power of two or more Judges under Section CCCXCVIII., CCCCI., and CCCCXX. of the C. C. P.

3. This Act to be read as part of the C. C. P.

An Act to amend the Code of Criminal Procedure.

Preamble.

Whereas it is expedient to amend the Code of Criminal Procedure in regard to the extension thereof to any parts of the Territories not subject to the General Regulations, it is enacted as follows:

With what restrictions, &c., Code of Criminal Procedure may be extended to a Non-Regulation Province.

I. When, under the provisions of Section 445 of the Code of Criminal Procedure, the said Code has been or shall be extended to any part of the Territories not subject to the General Regulations of Bengal, Madras, or Bombay, it shall be lawful for the Governor General in Council or for the Local Government of such Territory to vest the Chief Officer charged with the executive administration of a District in Criminal matters, by whatever designation such Officer is called, with power to try all offences not punishable with death, and under the provisions of the said Code to pass sentence of imprisonment of either description for a term not exceeding seven years, including such solitary confinement as is authorized by law, or fine, or both.

When Sudder Court consists of one judge.

II. When the Sudder Court in any part of the Territories to which the said Code of Criminal Procedure has been or shall be extended as aforesaid, shall consist of a single Judge, such Judge shall have all the powers of two or more Judges of the Sudder Court under Sections 398, 401 and 420 of the said Code.

Construction.

III. This Act shall be taken and read as part of the Code of Criminal Procedure.

INCOME TAX.

ACT No. XVI. OF 1862.

[*Received the assent of the G. G. on the 1st May*, 1862.

Recites the powers given by Act XXI. of 1861, to limit the assessments for the year commencing July 31st, 1861, and the expediency of extending the same powers to the remaining three years of the Income Tax.

1 and 11 and 2—6. Empowers the Government of India to order the non-issue of the income tax assessment notices for the year commencing 31st July, 1862, and (11) successively in like manner for the year 1862-1863, and in lieu of such notice, a general notice, (2) in form given in Schedule, shall be

issued to the effect that the assessment for the coming year will be the same as for the last previous year; after which (3) the assessment officers shall proceed to make out their assessments accordingly, and (4) payment of the assessed dues may be enforced; provided however (5) that persons so minded may claim within specified time, to be newly assessed under the provisions of the original Income Tax Act, and (6) Income Tax Officers shall proceed to assess accordingly.

7, 8. Reserves power to Income Tax Commissioners and Collectors to issue special notices requiring from any person new returns for coming year, and (8) all the provisions of the Income Tax Act, shall apply to such notices.

9. In case of transfer of property after date of assessment, the person in enjoyment at the date of assessment shall pay the Income Tax.

10. This Act not to apply to assessments under Schedules 3 and 4 of Income Tax Act.

11. See *Supra* 1.

12. Empowers the Income Tax Commissioners, &c., on application of persons assessable, to assess by way of composition for the remaining three years of the Act; such assessment to be final unless procured by fraud.

13, 14. Repeals Sections CXVI. to CXIX. of Act XXII. of 1860; and (14, cl. 1.) exempts Incomes not amounting to 500 Rupees from the Tax, if (cl. 2) exemption claimed in manner specified.

15. Repeals Sections CXI. to CXIV. of Act XXII. of 1860, as to keeping separate accounts of 1 per cent of the Tax, and directs that not less than 20 per cent. of the gross collections for Income Tax be appropriated to roads, canals, and other reproductive works, &c.

16. Empowers the Government of India to prescribe the forms in which Income Tax returns shall be made.

An Act to limit in certain cases the amount of assessment to the Duties chargeable after the 31st day of July, 1862, under Act XXXII. of 1860 (for imposing Duties on profits arising from Property, Professions, Trades, and Offices), and Act XXXIX. of 1860 (to amend Act XXXII. of 1860), and otherwise to modify the said Acts.

Expired with the principal Income Tax Act.

OLD CRIMINAL LAW AND PROCEDURE REPEAL.

Act No. XVII. of 1862.

[*Received the assent of the G. G. on the 1st May*, 1862.

Recites the enactment of a Penal Code and Code of Criminal Procedure, and the expediency of repealing certain antecedent Regulations and Acts.

1—3. Repeals the Regulations and Acts set forth in Schedule annexed; so far as they provide for the punishment of offences; (2) so far as they relate to procedure, and (3) the other Acts set forth in the Schedule to the extent expressed in the Schedule, wherever the Code of Criminal Procedure is or shall be extended.

4, 5. Applies the Code of Criminal Procedure to the investigation of all offences committed before the 1st June, 1862, so far as it can be applied, and vests the jurisdictions given by that Code in all Courts, &c, specified therein for the purpose of such investigation, &c., in all places to which the Code has been extended; and (5) also applies it to offences committed in parts before the Code was extended to such parts.

6. Annuls objection to any sentence on the mere ground of the procedure having been partly according to the Code.

7. This Act not to affect sentences or orders made before it passed.

Schedule of Regulation and orders.

An Act to repeal certain Regulations and Acts relating to Criminal Law and Procedure.

Preamble.

Whereas by Act XLV. of 1860 a Penal Code has been prescribed for British India, and the said Code came into operation on the 1st day of January, 1862; and whereas by Act XXV. of 1861 a Code of Procedure is provided for the Courts of Criminal Judicature not established by Royal Charter, and the said Code likewise came into operation on the 1st day of January, 1862, in the Presidencies of Bengal, Madras, and Bombay, and was at the same time, or has since been, or hereafter may be extended to other parts of British India; and whereas it is expedient to repeal, in the manner hereinafter provided, certain Regulations and Acts relating to Criminal Law and Procedure, it is enacted as follows:

Repeal of Regulations and Acts providing for the punishment of offences.

I. The several Regulations and Acts set forth in the Schedule hereunto annexed, so far as they provide for the punishment of offences, shall be held to have been and are hereby repealed from the 1st day of January, 1862, in the Presidencies of Bengal, Madras, and Bombay, and in the other parts of British India, in which such Regulations and Acts or any of them were in force on the said 1st day of January, 1862, except in so far as they repeal the whole or any part of any other Regulation or Act, and except

Exception.

as to any offence committed before the said 1st day of January, 1862.

Repeal of Regulations and Acts not repealed by last Section, in places where Code of Criminal Procedure came into operation on the 1st January, 1862.

II. To the extent expressed in the Schedule annexed to this Act, the Regulations and Acts set forth therein, which are not repealed by the last preceding Section, shall, except in so far as they repeal the whole or any part of any other Regulation or Act, and except as to any offence committed before the said 1st day of January, 1862, be held to have been and are hereby repealed from the said date in the Presidencies of Bengal, Madras, and Bombay, and in the other parts of British India in which such Regulations and Acts or any of them were in force on the said 1st day of January, 1862, and in which the said Code of Criminal Procedure came into operation on such date.

Repeal of the same Regulations and Acts in places where the Code of Criminal Procedure did not come into operation on 1st January, 1862.

III. To the extent expressed in the Schedule annexed to this Act, the Regulations and Acts set forth therein, which are not repealed by Section 1 of this Act, and which were in force on the said 1st day of January, 1862, in any part of British India in which the said Code of Criminal Procedure did not come into operation on the said 1st day of January, 1862, shall, except in so far as they repeal the whole or any part of any other Regulation or Act, and except as to any offence committed before the date on which the said Code shall have been or shall hereafter be extended to such part of British India, be held to have been or shall be repealed in such part of British India from the date on which the said Code shall have been or shall be so extended thereto.

Procedure and powers in the investigation and trial of offences committed before the 1st January, 1862.

IV. In the investigation and trial of offences committed before the said 1st day of January, 1862, the Criminal Courts of the several grades and the Officers of Police shall after the passing of this Act, be guided by the provisions of the Code of Criminal Procedure, so far as the same can be applied, wherever the said Code shall be in operation at the time of such investigation or trial; and for the trial and punishment of such offences such Courts shall exercise the jurisdiction and powers vested in them under the said Code of Criminal Procedure, provided that no

person convicted of any such offence shall be liable to any other punishment than that to which he would have been liable had he been convicted of such offence before the said First day of January, 1862, and that no such person, who shall claim the same, shall be deprived of any right of appeal or reference to a Sudder Court which he would have enjoyed had the trial been held under any of the Regulations or Acts hereby repealed.

Procedure in the investigation and trial in places to which the Code of Criminal Procedure is extended after passing of this Act of offences committed before date of extension.

V. In any part of British India to which the Code of Criminal Procedure shall be extended after the passing of this Act, the said Code shall, subject to the provisions of the last preceding Section, be followed in the investigation and trial of any offences committed before the date of such extension.

Saving of certain sentences passed for offences committed before Code of Criminal Procedure came into operation, by reason only of the procedure of that Code having been followed.

VI. No sentence passed before the passing of this Act for any offence which shall have been committed before the 1st day of January, 1862 (or whenever the said Code of Criminal Procedure shall not have been extended to any place in British India on the said 1st day of January, 1862, then before the date on which the said Code shall have been extended to such place), shall be liable to be quashed or set aside by reason only of the procedure in the investigation or trial of any such offence having been wholly or in part the procedure provided by the said Code of Criminal Procedure. Provided that, if in any such case it shall appear that the accused party has been deprived of any right of appeal or reference to a Sudder Court, which he would have enjoyed had the trial been held under any of the Regulations or Acts hereby repealed, the Sudder Court or the highest Court of Criminal Jurisdiction may call for the proceedings in the case and pass such order thereon as it may deem just and proper.

Proviso.

Saving of certain sentences passed, &c., before passing of this Act.

VII. Nothing in this Act shall affect any sentence or order passed or any proceeding held or any act done previously to the passing of this Act and in accordance with any Act or Regulation repealed by this Act.

SCHEDULE OF REGULATIONS AND ACTS REPEALED.

Regulation or Act, and extent of Repeal.	*Regulation or Act, and extent of Repeal.*
Act XIII. of 1835—The whole Act.	Act XXIV. of 1843—The whole Act.
Act XV. of 1835—The whole Act.	Act III. of 1844—The whole Act.
Act XVIII. of 1835—The whole Act.	Act XIV. of 1844—The whole Act.
Act XX. of 1835—The whole Act.	Act II. of 1845—The whole Act.
Act VI. of 1836—The whole Act.	Act X. of 1845—The whole Act.
Act XXX. of 1836—The whole Act.	Act XVIII. of 1845—The whole Act.
Act XVIII. of 1837—The whole Act.	Act XXVII. of 1845—The whole Act.
Act XXI. of 1837—Section IV.	Act XXX. of 1845—The whole Act.
Act XXIII of 1837—The whole Act.	Act VII. of 1846—The whole Act.
Act XXVII. of 1837—Section XII.	Act X of 1847—The whole Act.
Act XXX. of 1837—The whole Act.	Act XX. of 1847—Section IV.
Act XXXIII. of 1837—The whole Act.	Act I. of 1848—The whole Act.
Act XXXVII of 1837—The whole Act.	Act III. of 1848—The whole Act.
Act III. of 1838—The whole Act.	Act V. of 1848—The whole Act.
Act IX. of 1838—The whole Act.	Act XI. of 1848—The whole Act.
Act XXVI. of 1838—The whole Act.	Act XIX. of 1848—The whole Act.
Act II. of 1839—The whole Act.	Act IV. of 1849—The whole Act.
Act XVIII. of 1839—The whole Act.	Act XIV. of 1849—the whole Act.
Act XIX. of 1839—The whole Act.	Act VII. of 1850—The whole Act.
Act I. of 1840—The whole Act.	Act XIII. of 1850—The whole Act.
Act IV. of 1840—The whole Act.	Act XVI. of 1850—The whole Act.
Act V. of 1840—Sections II and III.	Act XXXVIII. of 1850—the whole Act.
Act XI. of 1840—Sections II. and III.	Act IV. of 1851—The whole Act.
Act XVII. of 1841—Section II., so much as was not repealed by Act X. of 1861.	Act XVI. of 1851—the whole Act.
Act XXI. of 1841—The whole Act.	Act XXXII. of 1852—The whole Act.
Act XXX. of 1841—Section I.	Act I. of 1853—The whole Act.
Act XXXI. of 1841—The whole Act.	Act VII. of 1854—So much of the Act as relates to warrants issued otherwise than under the provisions of the said Act.
Act VIII. of 1842—The whole Act.	Act X. of 1854—So much of Section I. as recites that the order passed by any Assistant or Deputy Magistrate shall be subject to appeal, and Sections II. and III.
Act XVIII. of 1842—The whole Act.	Act XII. of 1854—The whole Act.
Act IV. of 1843—The whole Act.	Act XV. of 1855—The whole Act.
Act VII. of 1843—Sections XXVII., XXIX., XXX., XXXI., XXXII., XXXIII., XXXIV., XXXVI., XXXVII., XLI., XLII., XLIII., LI., LIV., LV., and LVI.	Act XVI. of 1855—The whole Act.
Act XV. of 1843—In so far as it relates to the powers of Deputy Magistrates or Judicial Officers.	Act XIX. of 1855—Section V.
	Act I. of 1856—The whole Act.
	Act II. of 1856—The whole Act.

Regulation or Act, and extent of Repeal.
Act IV. of 1856—The whole Act.
Act XVII. of 1856—The whole Act.
Act III. of 1857—So much of Section XIII. as provides that offences under the said Section shall be dealt with by the Police Officers according to the provisions of Section XXV., Regulation XX. of 1817 of the Bengal Code, Section XXVII., Regulation XI. of 1816 of the Madras Code, and Section XLIII., Regulation XII. of 1827 of the Bombay Code.
Act VII. of 1857—Section IV.
Act XI. of 1857—Sections I. and II.
Act XXIV. of 1859—Sections XXII., XXIII., XXIV., XXV., XXVI., XXVII., XXVIII., XXIX., XXX., XXXI., XXXII., XXXIII., XXXIV., XXXV., XXXVI., XXXVII., XXXVIII., XXXIX., XL., XLI., XLII. and XLIII., and so much of the Schedule as repeals Clause I, Section XI of Regulation XI. of 1816.
Act III. of 1860—The whole Act.
Act XVII. of 1860—Section XI.
Act XXXV. of 1860—The whole Act.
Act XXII. of 1861—Sections I., II., III., IV., and V.
BENGAL.
Regulation IX., 1793—Sections IV., V., VI., VII., VIII., IX., X., XI., XII., XIV., XV., XVI., XVII., XVIII., XXIII., XXVI., XXVII., XXIX., XLVII., XLVIII., XLIX., L., LI., LIII., LIV, LVI., LVII., LVIII, LXI., LXIV., LXV., LXXIV, LXXV., LXXVII. and LXXVIII.
Regulation XIII., 1793—Sections IX. and XI.
Regulation XXII., 1793—Sections X., XVI, XXII., XXXI., XXXII., XXXIII., XXXIV. and XXXVIII.
Regulation VII., 1794—The whole Regulation.
Regulation XVI., 1795—Section IV., Clause 1, in so far as it extends the provisions of Regulation IX. of 1793, which are repealed by this Act, and Clauses 2, 4, and 5, and the following Sections of the Regulation.
Regulation XVII., 1795—Sections X., XX., XXIX., XXX., XXXI., and XXXII., XXXV.
Regulation XXI., 1795—The whole Regulation.
Regulation II., 1796—The whole Regulation.
Regulation IX., 1796—The whole Regulation.
Regulation XI., 1796—The whole Regulation.
Regulation II., 1797—Section III.
Regulation IV., 1797—The whole Regulation.
Regulation XIII., 1797—The whole Regulation.
Regulation XIV., 1797—The whole Regulation.
Regulation III., 1798—The whole Regulation.
Regulation II., 1799—The whole Regulation.
Regulation IV., 1799—The whole Regulation.
Regulation VIII., 1799—The whole Regulation.
Regulation X., 1799—The whole Regulation.

Regulation or Act, and extent of Repeal.
Regulation III., 1801—The whole Regulation.
Regulation VIII., 1801—The whole Regulation.
Regulation VI., 1802—The whole Regulation.
Regulation VI., 1803—The whole Regulation, with exception to Sections III. and XXXIV.
Regulation VII., 1803—From Section V. to Section XLI., both inclusive.
Regulation VIII., 1803—The whole Regulation, with exception to Sections VI., XXIV. and XXVI.
Regulation XII., 1803—Sections XII. and XIV.
Regulation XX., 1803—The whole Regulation.
Regulation XXXV., 1803—Section III., Clauses 3, 4, and 5, and Section X.
Regulation L., 1803—The whole Regulation.
Regulation LIII., 1803—The whole Regulation.
Regulation III., 1804—The whole Regulation.
Regulation IV., 1804—Proviso in Section VII.
Regulation IX, 1804—So much of the Regulation as extends the whole or any part of Regulations VI., VII., VIII., XX., XXXV., and LIII. of 1803, which are repealed by this Act, to the Districts mentioned in Sections III. and IV; Sections V. and VI; and the proviso in Section XI.
Regulation III., 1805—The whole Regulation.
Regulation VII., 1805—Section XIV.
Regulation I., 1806—Sections VI., VII., VIII, and IX.
Regulation XII., 1806—Section III. in so far as it extends the parts of Regulation IX. of 1804 and Regulation VIII. of 1805, and the other Regulations therein referred to, which are repealed by this Act
Regulation XV., 1806—The whole Regulation.
Regulation II., 1807—The whole Regulation.
Regulation IX., 1807.—The whole Regulation.
Regulation XIV., &c.
Regulation XIV., 1807—Section XI., Clauses 7, 8, 9, 10, 11, and 12, Section XX., and Section XXI.
Regulation VIII., 1808—The whole Regulation.
Regulation I., 1810—The whole Regulation.
Regulation VI., 1810—Sections III., IV., and V.
Regulation XIV., 1810—The whole Regulation
Regulation I., 1811—The whole Regulation, except so much of Section X. as declares Landholders and others accountable for the early communication to the Magistrate of information respecting receivers of stolen goods.
Regulation VII., 1811—The whole Regulation.
Regulation X., 1811—Section III.
Regulation XIV., 1811—The whole Regulation.
Regulation III., 1812—Sections II. and III., so much of Section IV. as provides a punishment for the offence mentioned in the Section, Section VI. and Section XII.
Regulation VII., 1813—Section III.
Regulation IX., 1813—The whole Regulation.

Regulation or Act, and extent of Repeal.
Regulation VIII., 1814 — So much of Section II. as provides a punishment for the offence mentioned in the Section.
Regulation XI., 1814 — The whole Regulation.
Regulation XV., 1814 — The whole Regulation.
Regulation XIV., 1816—Sections IX. and XV.
Regulation XVII., 1816 — Section VIII., Clauses 3 and 4.
Regulation XVII., 1817—The whole Regulation.
Regulation XX., 1817 — Clauses 3 and 4 of Section VI., Clauses 5, 6, and 7 of Section VIII., Sections IX., XII., XIII, XIV., XV., XVI., XVII, XVIII., XIX., XX., XXII, XXIII., XXIV., XXV., and XXVI.
Regulation VI., 1818 — The whole Regulation.
Regulation VIII., 1818 — The whole Regulation.
Regulation XII., 1818 — The whole Regulation.
Regulation III, 1819 — The whole Regulation.
Regulation VII., 1819 — The whole Regulation.
Regulation IV., 1820 — The whole Regulation.
Regulation VII., 1820 — The whole Regulation.
Regulation III., 1821 — The whole Regulation.
Regulation I., 1822 — The whole Regulation.
Regulation IV, 1822 — The whole Regulation.
Regulation VIII., 1822—The whole Regulation.

Regulation or Act, and extent of Repeal.
Regulation II., 1823—The whole Regulation.
Regulation IV., 1823 — The whole Regulation.
Regulation VI., 1824 — The whole Regulation.
Regulation X., 1824 — The whole Regulation.
Regulation I., 1825—The whole Regulation.
Regulation IV., 1825 — The whole Regulation.
Regulation XII., 1825—The whole Regulation.
Regulation XVI., 1825—The whole Regulation.
Regulation I., 1828—The whole Regulation.
Regulation VI., 1828 — The whole Regulation.
Regulation VIII., 1828—The whole Regulation.
Regulation VI., 1829—The whole Regulation.
Regulation VII., 1829—The whole Regulation.
Regulation XII., 1829—The whole Regulation.
Regulation XVII., 1829 — Sections IV. and V.
Regulation IV., 1830 — The whole Regulation.
Regulation VIII, 1830—The whole Regulation.
Regulation VI., 1831—Sections XII. and XIII.
Regulation VII., 1831—Sections V. and VI., and so much of Section VII. as relates to Session Judge.
Regulation IX., 1831—Sections III. and IV.
Regulation II., 1832—Sections II. and III.

Regulation or Act, and extent of Repeal.	*Regulation or Act, and extent of Repeal.*
Regulation III., 1832—Clause 2 of Section II.	Regulation II., 1822—The whole Regulation.
Regulation VI., 1832—Sections IV., V., and VI.	Regulation VI., 1822—The whole Regulation.
Regulation II., 1834 — The whole Regulation, except Section VII.	Regulation I., 1824—The whole Regulation.
MADRAS.	Regulation I., 1825—The whole Regulation.
Regulation III., 1802—Section VIII.	Regulation III., 1826—The whole Regulation.
Regulation IV., 1802—Section XX.	Regulation II., 1827—Section III.
Regulation VII., 1802—The whole Regulation.	Regulation III., 1827—The whole Regulation.
Regulation VIII., 1802 — Sections VIII., IX, X, XI., XIII., XIV., XV., XVI, XVII., XVIII, XX., XXI., XXIII., XXIV. and XXV.	Regulation VI., 1827 — The whole Regulation.
Regulation IX, 1802 - Section VIII.	Regulation VIII., 1827—So much of Section IV. as provides for Native Judges being guided by Regulation X, 1816, Sections V., VII., VIII., X, XI., XII., XIII, and Clauses 3 and 4 of Section XIV.
Regulation XII., 1802—Sections XII., XIII. and XIV.	Regulation X., 1827—The whole Regulation.
Regulation XV., 1803—The whole Regulation.	Regulation VIII., 1828—The whole Regulation.
Regulation I., 1810 — The whole Regulation.	Regulation IX., 1828—The whole Regulation.
Regulation VI., 1811 — The whole Regulation.	Regulation VI., 1829— The whole Regulation.
Regulation VI., 1816—Section XLIX.	Regulation VIII., 1829—The whole Regulation.
Regulation IX., 1816 — The whole Regulation, except Sections II., III., IV., V., and XLIII, and Nos. 1 and 2 of Appendix.	Regulation II., 1830 — The whole Regulation.
Regulation X., 1816—The whole Regulation, except Section XL. and Appendix.	Regulation II., 1831 — The whole Regulation.
Regulation XI, 1816—The whole Regulation except Sections VIII, IX., X., XII., XIII., XIV. and XLVII. [Amended by Act 36, 1867, by substituting for the figures "XII." the figures, &c., *XI.*, cl. 1]	Regulation III, 1831 — The whole Regulation.
Regulation III., 1817—Section II.	Regulation VIII., 1831—Section V.
Regulation I, 1818—The whole Regulation.	Regulation VIII., 1832—The whole Regulation.
Regulation III., 1819—The whole Regulation.	Regulation IX., 1832 — The whole Regulation.
Regulation V., 1819—The whole Regulation.	Regulation XIII., 1832—The whole Regulation.
Regulation IV., 1821—The whole Regulation, except Section VI.	

Regulation or Act, and extent of Repeal.	*Regulation or Act, and extent of Repeal.*
Regulation II., 1833 — The whole Regulation.	Clause 3 of Section XXXIII., and the whole of Chapter VI., except Clause 3 of Sec. XXXIV., in as far as it authorizes the occasional substitution of a letter for a summons, and except Clause 2 of the same Section, Clause 2 of Section XXXVI., and Clauses 1 and 2 of Section XLIII.
Regulation III., 1833—Section II.	
Regulation I., 1834 — The whole Regulation.	
BOMBAY.	
Regulation II.,1827—Section XXXVI.,	
Regulation IV., 1827—Clause 4, Section XXXIV., also Section LII., and Sections LIV. and LV.	
Regulation XI., 1827 — The whole Regulation.	
Regulation XII., 1827 — The whole Regulation, with the following exceptions: Section I., in as far as it applies to the Zillah Magistrate; Clause 1 of Section III, in as far as it relates to the Police functions of the Zillah Magistrate; Clause 2 of Section III.; Clause 5 of the same Section, in as far as it extends to the Zillah Magistrate; Section IV., in as far as it extends to Assistant Collectors in charge; Section VI.; Clause 4 of Sec. X.; Clause 1 of Section XIII, in as far as it regulates the endorsement and record of warrants issued by Magistrates; Clauses 1, 6, 7, and 8 of Section XIX.; Section XX.; Clause 1 of Section XXII., in as far as it relates to the superintendence of Village Police; Clause 2 of Sec XXVII.; Section XXX.; Clause 4 of Sec. XXXI.; Sections XXXVII. and XL.; and Chapter VI.	Regulation XIV., 1827—The whole Regulation, except Clause 2 of Section III, and Sections XX. and XXIII.
	Regulation XV., 1827 — The whole Regulation.
	Regulation XXIII., 1827— The whole Regulation.
	Regulation XXX., 1827—The whole Regulation.
	Regulation XVII., 1828—The whole Regulation.
	Regulation III., 1830 — The whole Regulation, except Sections II., IV., VI., and VII.
	Regulation IV., 1830—The whole Regulation, except Clause 1 of Section I., and Section II
	Regulation XVI., 1830—The whole Regulation.
	Regulation XIX., 1830—The whole Regulation.
	Regulation V., 1831 — The whole Regulation.
	Regulation VIII., 1831—The whole Regulation, except Section I.
	Regulation IX., 1831—The whole Regulation.
	Regulation III., 1833—The whole Regulation.
	Regulation VII., 1833—The whole Regulation.
	Regulation VIII., 1833—The whole Regulation.

CALCUTTA HIGH COURT.—CRIMINAL PROCEDURE.

ACT No. XVIII. OF 1862.

[*Received the assent of the G. G. on the 1st May*, 1862.

Recites that in consequence of the passing of the I. P. C., Act XVI., 1862, has become partially inapplicable, and that it is expedient to repeal the said Act and re-enacts parts thereof, &c.

1. At the trial in case of variance between the indictment and evidence Court may allow amendment, if it would not prejudice the defence, on such terms as to postponing trial, &c., and having new jury, &c., as may be reasonable, &c.; recognizances of prosecutor and witnesses to be respited, and fresh ones not necessary.

2, 3. Indictment for Criminal breach of trust under sec. 405, or sec. 407, or sec. 408, or cheating under sec. 420, may be amended by charging the offence respectively under sec. 378 or sec. 381.

4. Indictment for theft under sec. 378 or sec. 380 may be amended by charging dishonest misappropriation of property under sec 403, or C. B. of Trust under sec. 405.

5. Indictment for theft under sec. 381 may be amended by charging dishonest misappropriation of property under sec. 403, or sec. 404, or C. B. of Trust under sec. 405, or sec. 408.

6, 7. Amended indictment to be of same force and effect as the original one; and (7) formal record when drawn up shall be of the amended indictment.

8. Under indictment for theft, proof of moving the property in order to a dishonest taking shall be sufficient for a conviction.

9, 10. The manner and means of causing or attempting to cause death, need not be stated in indictment for culpable homicide or the attempt; and (10) in indictment for murder, the charge may be of (*a*) doing an act with intention of causing death, &c., or (*b*) with the intention of causing bodily injury, &c., or (*c*) knowing it to be imminently dangerous, &c., or (*d*) knowing it to be likely to cause death, &c., without excuse for incurring such risk; and in indictment for abetting murder, abetment may be simply charged.

11. Under indictment for murder, the jury may find verdict of culpable homicide not amounting to murder.

12. Under indictment for murder of a child jury may find verdict of intentionally concealing birth, &c., under sec. 318.

13, 14. In indictment for grievous hurt the kind of grievous hurt needs not be stated; and (14) under indictment for grievous hurt or hurt under secs. 336, 337, 338, jury may convict though death was caused, or the offence proved amounted to culpable homicide.

15. In indictment, instrument or document necessary to be mentioned may be described by name and need not be set out.

16. In indictment for offence with intent to defraud, allegation and proof of intent generally sufficient.

17. Under indictment for an offence, the conviction may be of an attempt if an act was done towards its commission, and it was not completed.

18. Under indictment for criminal misappropriation of property, conviction may be of theft.

19. Under indictment against several persons as joint receivers, any one or more may be convicted on proof of any receiving.

20. Abettors may be convicted without previous conviction or trial or commitment of the offender in chief, and may be indicted, &c., with or without such offender, and may be tried either where such offender might be tried, or where the abetment was committed, or any act in pursuance of it was done.

21. Receivers of stolen property, property criminally misappropriated, or converted by criminal breach of trust, may be indicted as for substantive offences independently of the original offender.

22. Indictment may be for several different kinds of offences, but the judge may direct them to be tried separately as if charged separately.

23. In trial for theft evidence may be given under one indictment of several takings or movings in order to take not exceeding three in number, is committed within six months.

24. In indictment for giving or fabricating or using or attempting to use false evidence or for any offence punishable as such, or for abetment or attempt, it shall be sufficient to set forth the substance of the offence charged without the specified formal circumstances.

25. Money of any kind, Bank notes, and Government notes payable on demand may be described in indictment as money, and indictment for obtaining money by cheating may be sustained, though there was a bailment of part of the money for a purpose carried out.

26, 27. Neither the general exceptions in Chap. IV. of the I. P. C., nor the exceptions contained in sections 136, 300, 323, 324, 325, 326, 375, 499 need be negatived in an indictment, but the defendant may give evidence of them in defence; and (27) in proving himself within the 2nd, 3rd, 5th, 6th, 7th 8th, 9th, and 10th exceptions of sec. 499, good faith shall be presumed till the contrary appears.

28. The words of the Code in an indictment shall be understood in the same sense as in the Code.

29—33. Gives the Supreme Court jurisdiction to try for a murder or homicide, if the death took place or the offence commenced or was completed in Calcutta; and (30) for any other offence if the offence commenced or was completed in Calcutta; or (31) if when composed of acts and consequences, either any of the acts or consequences were in Calcutta; and (32) for receiving or retaining stolen property, if the property was received or retained in Calcutta, or if the theft was wholly or in part committed in Calcutta; and (33) for dishonestly concealing, &c., property under sec. 424 of I. P. C. if the concealment was in or removed from Calcutta.

34, 35. Offences committed wholly or in part on the boundary may be tried in Calcutta, in case of doubt on which side of the boundary it was committed; and (35) offences committed on a journey or voyage may be tried in Calcutta, if any part of the journey or voyage was performed in Calcutta.

36. In case of escapes from lawful custody, the trial may be in Supreme Court, if the escape was from or the recapture or former trial was in Calcutta.

37. The Justices of Calcutta may deal with all persons charged with offences triable in virtue of this Act by Supreme Court.

38. Former conviction or acquittal before a court of competent jurisdiction in virtue of this Act to bar subsequent conviction or acquittal.

39. Sections 10, 12, 13, 14, 15, 16, 18, and 23 of 9 Geo. 49, Chap. 74, shall apply to offences under I. P. C.; section 5 to include murder and culpable homicide and the words felony and misdemeanors in sec. 110 to extend to any dishonest offence against property under the I P. C.

40. No indictment to be held insufficient for specified formal defects, nor for specified misnomers of persons, nor for error in allegations of dates, values, damages, &c., where value, &c., is not of the essence of the offence.

41. Objection to indictment for want of certainty or any formal defect shall be taken by demurrer or motion to quash, &c., and defect may be amended, &c.

42. Takes away the right of defendants to traverse, but empowers the Court on application to adjourn the sessions or postpone the trial on terms, and to respite the recognizant, &c.

43. Sufficient in plea of autrefois acquit or convict to state that the defendant has been lawfully convicted or acquitted.

44—46. Charge under sec. 497 of I P. C. shall only be instituted by the husband; and (45) under sec. 498 only by the husband or person having care of the woman on behalf of the husband; and (46) at the trial under either of those sections, these conditions shall be proved, and on failure of proof the indictment shall be quashed.

47—51. Persons sentenced to rigorous imprisonment shall, and (48) persons sentenced to penal servitude shall for intermediate custody be imprisoned in, the House of Correction, and (49) if the House of Correction is not under the control of the Sheriff, shall be sent there under a warrant signed by the Session Judge; and (50) all constables shall aid the Sheriff in carrying such persons to the House of Correction; and (51) the Sheriff shall be absolved from all responsibility for persons in the House of Correction.

52, 53. Persons sentenced by I. P. C. of the Presidency Towns to rigorous imprisonment, shall be committed to the House of Correction; and (53) prisoners there at the date of this Act shall be deemed, &c., to be in the custody of the officer having control, &c., of the House of Correction

54, 55. This Act to take effect immediately in existing Supreme Court in Bengal, and (55) in Madras and Bombay, and in any Court to which the

criminal jurisdiction of those courts shall be extended, and to all indictments and proceedings therein under the I. P. C.

56. Repeals Act XVI., 1852, so far as it relates to indictments in such courts, except as to offences not under the I. P. C.

57. Definition of terms, "indictment," "finding of the indictment and import of number and gender; description of Acts done to include omissions; "British India;" "Property."

An Act to repeal Act XVI. of 1852, in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature.

Preamble.

Whereas in consequence of the passing of the Indian Penal Code, many of the provisions of Act XVI. of 1852 (*for further improving the administration of Criminal Justice in Her Majesty's Courts of Justice in the Territories of the East India Company*), have become inapplicable, and others require amendment, and it is expedient to repeal the said Act, and, pending the preparation of a Code of Criminal Procedure for Her Majesty's Supreme Courts of Judicature, to re-enact some of the provisions of the said Act, and to make further provision for the administration of Criminal Justice in such Courts, it is enacted as follows:

Court may amend certain variances not material to the merits of the case, and by which the defendant cannot be prejudiced in his defence, and may either proceed with or postpone the trial to be had before the same or another jury.

I. Whenever, on the trial of an indictment for an offence, there shall appear to be a variance between any statement in such indictment and the evidence offered in proof thereof, it shall be lawful for the Court before which the trial shall be had, if it shall consider that by the amendment of the indictment the person indicted will not be prejudiced in his defence on the merits, to order such indictment to be amended, according to the proof, by some Officer of the Court or other person both in that part of the indictment where such variance occurs, and in every other part of the indictment which it may become necessary to amend on such terms as to postponing the trial if the person indicted apply for a postponement, and ordering the same to be had before the same or another Jury, as such Court shall think reasonable; and after any such amendment the trial shall

proceed, whenever the same shall be proceeded with, in the same manner in all respects and with the same consequences, both with respect to the liability of witnesses to be indicted for giving false evidence and otherwise, as if no such variance had occurred. Provided that in any such case, where the trial shall be so postponed as aforesaid, it shall be lawful for such Court to respite the recognizances of the prosecutor and witnesses, and of the person indicted and his surety or sureties (if any), in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence respectively, and the person indicted shall be bound to attend to be tried at the time and place to which such trial shall be postponed, without entering into any fresh recognizances for that purpose, in such and the same manner as if they were originally bound by their recognizances to appear and prosecute, or give evidence at the time and place to which such trial shall be so postponed. Provided also that, where any such trial shall be ordered to be had before another Jury, the Crown and the person indicted shall respectively be entitled to the same challenges as they were respectively entitled to before the first Jury was sworn.

On trial for criminal breach of trust and other offences, if the offence be theft, the Court may order indictment to be amended.

II. If, upon the trial of any person charged with the offence of criminal breach of trust under Section 405 of the Indian Penal Code, or the offence of cheating and thereby dishonestly inducing the person deceived to deliver property under Section 420 of the said Code, or of criminal breach of trust as a carrier, wharfinger, or warehouse keeper under Section 407 of the said Code, evidence shall be given to prove that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, the Court may order the indictment to be amended under the provisions of Section 1 of this Act.

Similar power of amendment in cases of criminal breach of trust as a clerk or servant.

III. If, upon the trial of any person charged with the offence of criminal breach of trust as a clerk or servant under Section 408 of the Indian Penal Code, evidence shall be given to prove that such person took the property in question in any such manner as to amount to the offence of theft under

Section 378 of the said Code, or the offence of theft as a clerk or servant of property in possession of his master under Section 381 of the said Code, the Court may order the indictment to be amended under the provisions of Section 1 of this Act.

Similar power of amendment in cases of theft, or of theft in a building, tent, or vessel.

IV. If, upon the trial of any person charged with the offence of theft under Section 378 of the Indian Penal Code, or the offence of theft in a building, tent, or vessel under Section 380 of the said Code, evidence shall be given to prove that, in respect of the property stated in the indictment, such person was guilty of the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of criminal breach of trust under Section 405 of the said Code, the Court may order the indictment to be amended under the provisions of Section 1 of this Act.

Similar power of amendment in cases of theft as a clerk or servant.

V. If, upon the trial of any person charged with the offence of theft as a clerk or servant of property in the possession of his master, under Section 381 of the Indian Penal Code, evidence shall be given to prove that such person was guilty of the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of dishonest misappropriation of property possessed by a deceased person at the time of his death under Section 404 of the said Code, or of such dishonest misappropriation under the said Section 404, the offender being at the time of the person's decease employed by him as a clerk or servant, or the offence of criminal breach of trust under Section 405 of the said Code, or the offence of criminal breach of trust as a clerk or servant under Section 408 of the said Code in respect of the property stated in the indictment, the Court may order the indictment to be amended under the provisions of Section 1 of this Act.

Verdicts and judgments valid after amendments.

VI. Every verdict and judgment which shall be given after the making of any amendment under the provisions of this Act, shall be of the same force and effect in all respects as if the indictment had originally been in the form in which it is after such amendment shall have been made.

VII. If it shall become necessary at any time, for any purpose whatsoever, to draw up a formal record in any case where any amendment shall have been made under the provisions of this Act, such record shall be drawn up in the form in which the indictment is after such amendment shall have been made, without taking any notice of the fact of such amendment having been made.

Records to be drawn up in amended form, without noticing the amendments.

VIII. In an indictment for theft the person indicted may be charged with having dishonestly taken the property stated in the indictment out of the possession of the person mentioned therein without that person's consent, and in support of such allegation it shall be sufficient to prove that the person indicted, intending to take dishonestly such property out of the possession of the person mentioned in the indictment, without that person's consent moved that property in order to such taking.

Form of indictment in cases of theft.

IX. In an indictment for murder or culpable homicide not amounting to murder, or for abetting murder or culpable homicide not amounting to murder, or for attempting to commit murder which shall be preferred after this Act shall come into operation, it shall not be necessary to set forth the manner in which, or the means by which, the death of the deceased was caused or attempted to be caused.

The means by which the injury was inflicted need not be specified in indictments for murder and culpable homicide.

X. In an indictment for murder it shall be sufficient to state that the person charged with the offence did murder the deceased by doing an act with the intention of causing the death of a human being, or, as the case may be, by doing an act with the intention of causing such bodily injury to the deceased as the offender knew to be likely to cause the death of the deceased, or by doing an act with the intention of causing bodily injury to some person, and that the bodily injury intended to be inflicted was sufficient in the ordinary course of nature to cause death, or by doing an act knowing it to be so imminently dangerous that it must in all probability cause the death of a human being, or such bodily injury as was likely to cause the death of a human being, and committing such act without any excuse for incurring the risk of

Form of indictment in cases of murder.

causing death or such injury as aforesaid, and in any indictment for abetting murder or for attempting to commit murder, it shall be sufficient to state that the person charged with the offence abetted the murder of the deceased or attempted to murder the deceased, as the case may be.

Upon indictment for murder, Jury may find the accused guilty of culpable homicide not amounting to murder.

XI. Upon an indictment for murder, the Jury may find the person charged with the offence not guilty of murder, but guilty of culpable homicide not amounting to murder.

Upon indictment for murder, Jury may find the accused guilty of concealing or endeavouring to conceal the birth of a child.

XII. Upon an indictment for the murder of a child, the Jury may find the person indicted not guilty of murder, but guilty of intentionally concealing or endeavouring to conceal the birth of such child under Section 318 of the Indian Penal Code, and the person so found guilty shall be liable to be punished under the said Section of the said Code.

Not necessary to specify the particular kind of grievous hurt.

XIII. It shall not be necessary in an indictment for voluntarily causing grievous hurt to specify the particular kind of grievous hurt.

Provision for cases of trial for causing grievous hurt and other similar offences.

XIV. Upon an indictment for voluntarily causing grievous hurt or for voluntarily causing hurt to any person, or for an offence under Section 336, 337, or 338 of the Indian Penal Code, the person indicted shall not be entitled to be acquitted upon the ground that the hurt caused the death of the person injured, or that the person indicted was guilty of culpable homicide.

Form of indictment in cases respecting instruments or documents.

XV. In an indictment in which it shall be necessary to mention any instrument or document, or to make an averment or allegation respecting any instrument or document, it shall be sufficient to describe such instrument or document by any name or designation by which the same is usually known, or by the purport thereof, without setting out any copy or *fac-simile* thereof, or otherwise describing the same or the value thereof.

Intent to defraud particular person need not be alleged or approved.

XVI. In an indictment in which it shall be necessary to allege an intent to defraud, it shall not be necessary to allege or prove an intent to defraud any particular person, but it shall be sufficient to allege and prove an intent to defraud.

XVII. If, on the trial of any person charged with any offence, it shall appear to the Jury upon the evidence that the person charged did not complete the offence charged, but was guilty of an offence within the meaning of Section 511 of the Indian Penal Code by attempting to commit such offence, or to cause such offence to be committed, and in such attempt doing an act towards the commission of such offence, such person shall not by reason thereof be entitled to be acquitted, but the Jury shall be at liberty to return as their verdict that the person accused is not guilty of the offence charged, but is guilty of an attempt to commit the same within the meaning of Section 511 of the Indian Penal Code, and the offender so found guilty shall be liable to be punished in the same manner as if he had been convicted upon an indictment framed under the said Section for attempting to commit the particular offence charged in the indictment, and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the offence for which he was so tried.

A party indicted for an offence may be found guilty of an attempt to commit the same and shall be liable to the same consequences as if charged with and convicted of the attempt only. No person so tried to be afterwards prosecuted for the same.

XVIII. If, upon the trial of any person indicted for criminal misappropriation of property, it shall be proved that he was guilty of committing theft of such property, he shall not by reason thereof be entitled to be acquitted of the offence charged against him.

If person indicted for criminal misappropriation be proved guilty of theft.

XIX. If, upon the trial of two or more persons indicted for jointly receiving stolen property, it shall be proved that one or more of such persons separately received any part of such property, it shall be lawful for the Jury to convict upon such indictment such of the said persons as shall be proved to have received any part of such property.

Upon an indictment for jointly receiving, persons guilty of separately receiving may be convicted.

XX. A person may be indicted and punished for abetting an offence which has been committed in consequence of the abetment, notwithstanding the person who committed the offence shall not have been indicted or found guilty, or shall not be in custody or amenable to justice, and every abettor of an offence may be

Abettor of an offence may be indicted and punished in the absence of the principal.

indicted, tried, and punished for the abetment as a substantive offence, and may be tried either jointly with the principal offender or separately, and punished by any of Her Majesty's Supreme Courts of Judicature which would have power to try the principal offender, or which would have power to try the abettor if he had committed the offence himself either in the place in which he is guilty of the abetment, or in the place in which any act shall have been committed in pursuance of the abetment.

Receiver of stolen property may be indicted and punished in the absence of the principal.

XXI. A person may be indicted and punished for dishonestly receiving or retaining stolen property notwithstanding the person by whose offence the possession of such property shall have been transferred, or who shall have criminally misappropriated such property, or committed criminal breach of trust in respect thereof, shall not have been found guilty of such offence, or shall not be in custody or amenable to justice.

Insertion of several counts in the same indictment against the same person.

XXII. It shall be lawful to insert several counts in the same indictment against the same person for different offences. But the Judge, before whom the person indicted shall be tried, may direct that any one or more of the counts shall be treated as a distinct indictment or indictments, and that the person indicted shall be tried thereupon in the same manner as if such count or counts had been in separate and distinct indictments.

If the property alleged in an indictment for theft appear to have been taken at different times, prosecutor need not elect, unless where more than three takings, or more than six months between the first and last taking.

XXIII. If, upon the trial of an indictment for theft, it shall appear that the property alleged in the indictment was taken or moved at different times, the prosecutor shall not by reason thereof be required to elect, upon which taking or moving he will proceed, unless it shall appear that there were more than three takings or movings, or that more than the space of six calendar months elapsed between the first and the last of such takings, or movings, and in either of such last mentioned cases, the prosecutor shall be required to elect to proceed for such number of takings or movings not exceeding three, as shall appear to have taken place within the period of six calendar months from the first to the last of such takings or movings.

Form of indictment for giving or fabricating false evidence, &c.

XXIV. In an indictment for giving or fabricating false evidence, or for using or attempting to use false or fabricated evidence, or for any offence which by the Indian Penal Code is declared to be punishable in the same manner as the offence of intentionally giving false evidence, or for abetting or attempting to commit any of the offences aforesaid, it shall be sufficient to set forth the substance of the offence charged, without setting out any part of any proceeding either in law or in equity and without setting forth the commission or authority of the Court or person before whom such offence was committed.

Coin and Bank or Government Notes may be described simply as money.

XXV. In an indictment in which it shall be necessary to make any averment as to any money, or any note of any Bank, or any note of Government payable on demand, or which by any law is or shall be declared to be a legal tender, it shall be sufficient to describe such money or note simply as money without specifying any particular Coin or Bank or other note, and such allegation, so far as regards the description of the property, shall be sustained by proof of any amount of coin or of any such note as aforesaid, although the particular species of coin of which such amount was composed, or the amount, number, or other particulars of the note, shall not be proved, and in cases of obtaining money or any such note or notes as aforesaid by cheating by proof that the offender obtained any piece or pieces of coin, or any such note or notes, or any portion thereof, or of the value thereof by cheating, although such piece or pieces of coin or note or notes may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to any other person or persons, and such part shall have been returned accordingly.

Absence of general exceptions under the Penal Code to be assumed.

XXVI. It shall not be necessary to allege in an indictment any circumstances for the purpose of showing that the case does not come, nor shall it be necessary to allege that the case does not come, within any of the general exceptions contained in Chapter IV. of the Indian Penal Code, or within the exceptions contained in Section 136, Section 300, Section 323, Section 324, Section 325, Section 326, Section 375, or Section 499 of the

said Code, but every charge shall be understood to assume the absence of all such circumstances, and it shall not be necessary on the part of the prosecutor to prove at the trial the absence of such circumstances in the first instance; but the person indicted shall be entitled to give evidence of the existence of any such circumstances, and evidence in disproof thereof may then be given on the part of the prosecutor.

Evidence as to general exception.

XXVII. In proving the existence of circumstances as a defence under the 2nd, 3rd, 5th, 6th, 7th, 8th, 9th, or 10th exception to Section 499 of the Indian Penal Code, good faith shall be presumed unless the contrary appear.

Good faith to be presumed in certain cases.

XXVIII. In every indictment, words used in describing an offence, shall be deemed to have been used in the sense attached to them by the Indian Penal Code.

Words in indictments to be taken in the sense of the Penal Code.

XXIX. Any person accused of murder, or of culpable homicide not amounting to murder, may be dealt with tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if the act which shall have caused the death shall have been committed wholly or partly within the local limits of the jurisdiction of such Court, or if the death shall have taken place within such local limits in the same manner as if both the act had been committed and the death had taken place within such local limits.

Trials for murder or culpable homicide if the act which caused or the death took place within the jurisdiction.

XXX. Any person accused of an offence may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if the offence shall have been either commenced or completed within the local limits of the jurisdiction of such Court in the same manner as if the offence had been wholly and entirely committed within such local limits.

Supreme Court may deal with offence either commenced or completed within local jurisdiction.

XXXI. Whenever the offence of which any person shall be accused, shall consist of any thing which has been done and of any consequence which has ensued therefrom, the person accused may be dealt with, tried, and punished by any of Her

Offence may be dealt with if either the act was done or the consequence ensued within the jurisdiction.

Majesty's Supreme Courts of Judicature if either the act shall have been done, or the consequence shall have ensued within the local limits of the jurisdiction of such Court in the same manner as if both the act had been done and the consequence had ensued within such local limits.

Receiving stolen property, when part only of the offence is committed within the jurisdiction.

XXXII. Whenever a person shall be accused of any offence punishable under Sections 411, 412, 413, or 414 of the Indian Penal Code, in respect to the receiving or retaining of stolen property, such person may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if the offence by which the possession of the property shall have been transferred, shall have been committed either wholly or in part within the local limits of the jurisdiction of such Court, or if any of the stolen property shall have been received or retained by the person accused within such local limits.

Similar provisions as to dishonest removal or concealment of property.

XXXIII. If any person shall be accused of any offence under Section 424 of the Indian Penal Code, of dishonestly or fraudulently concealing or removing any property of himself, or of any other person, or of dishonestly or fraudulently assisting in the concealment or removal thereof, such person may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if the property shall have been concealed or removed in any place within the local limits of such Court, or shall have been removed from any place within such local limits.

Provision for cases on the boundaries or near the boundaries of local jurisdiction.

XXXIV. If any act shall have been committed or the consequence of any act shall have ensued on the boundaries of the local jurisdiction of such Court or so near to such boundaries as to render it doubtful whether such act was committed or such consequence ensued within such local limits or not, such act or consequence may for all purposes be stated, deemed and taken to have been committed or to have ensued within such local limits.

Provision for the case of offences committed on a journey or voyage.

XXXV. If any person shall be accused of any offence alleged to have been committed on a journey or on any voyage in British India, such person may be dealt with, tried, and punished by any

of Her Majesty's Supreme Courts of Judicature, if any part of the journey or voyage shall have been performed within the local limits of the jurisdiction of such Court.

Escape from lawful custody under sentence.

XXXVI. If any person shall escape from any custody in which he is lawfully detained in pursuance of a sentence of a Court of Justice, or by virtue of a Commutation of such sentence, or shall be charged with any offence declared to be punishable under Section 227 of the Indian Penal Code, or under Section XII. of Act XXIV. of 1855 (*relating to Penal Servitude*), the person accused may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if such person shall be apprehended and retaken within the local limits of the jurisdiction of such Court, or if he was formerly tried by such Court, or, in the case of an escape from custody, if he shall have escaped from custody in any place within such local limits.

Justices of Peace may deal with such offences.

XXXVII. Every Justice of the Peace shall have power to deal with any person charged with an offence for which he is liable under this Act to be tried, by one of Her Majesty's Supreme Courts of Judicature, in the same manner as if such offence had been wholly and entirely committed within the local limits of such Court.

A former conviction or acquittal before a competent Court to be a bar to subsequent trial or conviction.

XXXVIII. A former conviction or acquittal before a Court of competent jurisdiction of any offence hereby made punishable by Her Majesty's Supreme Courts of Judicature, shall be a bar to any subsequent trial or conviction for the same offence.

Certain provisions of 9th Geo. 4, c. 74, shall be deemed to apply to and include offences punishable under Penal Code.

XXXIX. The provisions of Sections 10, 12, 13, 14, 15, 16, 18, and 23 of the 9th, Geo. 4, c. 74, intituled "An Act for improving the administration of criminal Justice in the East Indies," shall be deemed to apply to and to include any offence punishable under the Indian Penal Code. Section 5 of the said Act shall be deemed to include murder or culpable homicide not amounting to murder; and the words felony or misdemeanor in Section 110 of the said Act shall be deemed to extend to and include any offence declared to be punishable under the Indian Penal Code by means of or in consequence of which the possession of property shall have been transferred.

XL. No indictment for any offence shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by the record," or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the statute" instead of "against the form of the statutes" or *vice versâ*, nor because any person mentioned in the indictment is designated by a name of Office or other description or appellation instead of his proper name, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment, or an impossible day, or on a day that never happened, nor for want of a proper or perfect venue, nor for want of a proper or formal conclusion, nor for want of or imperfection in the addition of any defendant, nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury, or spoil in any case where the value or price or the amount of damage, injury, or spoil is not of the essence of the offence.

No indictment to be held insufficient for immaterial errors.

XLI. Every objection to an indictment for uncertainty, or for any formal defect apparent on the face thereof shall be taken by demurrer or motion to quash such indictment before the Jury shall be sworn, and not afterwards, and every Court before which any objection shall be taken by demurrer or motion to quash for any formal defect, may, if it be thought necessary, cause the indictment to be forthwith amended in such particulars, by some Officer of the Court or other person, and thereupon the trial shall proceed as if no such defect had appeared.

Formal objections to indictments shall be taken before Jury are sworn. Court may amend any former defect.

XLII. No person prosecuted shall be entitled to traverse or postpone the trial of any indictment found against him at any Session of Oyer and Terminer or Session of Gaol delivery; provided always that if the Court upon the application of the person so indicted, or otherwise, shall be of opinion that he ought

No Traverse allowed, but the Court may postpone trial.

to be allowed a further time either to prepare for defence or otherwise, such Court may adjourn the Sessions to any subsequent day, and may adjourn the trial of such person to such day or to the next subsequent Session, upon such terms as to bail or otherwise as to such Court shall seem meet, and may respite the recognizances of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend and to prosecute and give evidence at such subsequent day or Session without entering into any fresh recognizance for that purpose.

Provision as to plea of Autrefois convict or Autrefois acquit.

XLIII. In any plea of Autrefois convict or Autrefois acquit, it shall be sufficient for the person accused to state that he has been lawfully convicted or acquitted (as the case may be) of the offence charged in the indictment.

Prosecution for adultery not to be instituted except by the husband.

XLIV. A charge of an offence under Section 497 of the Indian Penal Code shall not be instituted except by the husband of the woman.

Prosecution for enticing away a married woman not to be instituted except by husband or person in charge of the woman.

XLV. A charge of an offence under Section 498 of the Indian Penal Code shall not be instituted except by the husband of the woman, or by the person having care of such woman on behalf of her husband.

On trial of offence, under last two Sections, proof necessary of husband or person in charge of woman having instituted the charge.

XLVI. Upon the trial of an indictment for either of the offences mentioned in the last two preceding Sections, it shall be necessary to prove that the charge was instituted by the husband of the woman if the charge be made under Section 497 of the Indian Penal Code, or by the husband of the woman, or by the person having care of such woman on behalf of her husband, if the charge be made under Section 498 of the said Code, and in either case that the indictment is prosecuted by such husband or other person as the case may be, and on failure of such proof the indictment shall be quashed, and the person accused shall be discharged.

XLVII. to LII. [Repealed by Act XXV., 1863, as respects the Bengal Presidency, and repealed generally by Act XII., 1865, s. 2; again repealed by Act XII., 1867.]

Provision for persons now in the House of Correction.

LIII. From and after the passing of this Act, all persons who are confined at the date of the passing of this Act in the House of Correction, whether under the sentence of any of Her Majesty's Supreme Courts of Judicature, or of any Justice of the Peace or Police Magistrate, shall be considered to be and shall remain in the custody of the Officer in whom the control of such House of Correction is vested, whether such Officer be the Sheriff or not, or of the keeper of such House of Correction, and such Officer and keeper shall be responsible for the safe custody of all such persons.

Commencement of Act at Fort William in Bengal.

LIV. This Act shall commence and take effect in Her Majesty's Supreme Court of Judicature at Fort William in Bengal, or in any Court to which the whole or any part of the Criminal jurisdiction of that Court shall be transferred, from the time of the passing of the Act, and shall, so far as the same is applicable, extend to all indictments and proceedings in respect of any offence punishable under the Indian Penal Code, which have been or shall be presented or commenced in the said Court or in any other Court to which the whole or any part of the Criminal jurisdiction of such Court shall be transferred.

Commencement of Act at Madras and Bombay.

LV. This Act shall commence and take effect in Her Majesty's Supreme Courts of Judicature at Fort St. George and Bombay respectively, or in any Courts to which the whole or any part of the Criminal jurisdiction of those Courts respectively shall be transferred, from the time at which it shall be notified in the Official Gazette by an order of the Governor in Council of Fort St. George and Bombay respectively, that the Act is to take effect in such Courts; and from such time the provisions of the Act shall, so far as the same is applicable, extend to all indictments and proceedings in respect of any offence punishable under the Indian Penal Code which have been or shall be presented or commenced in the said Courts or in any other Courts to which the whole or any part of the Criminal jurisdiction of such Courts shall be transferred.

Act XVI. of 1862 how far repealed.

LVI. From the time at which this Act shall take effect in any of Her Majesty's Supreme Courts of Judicature, as provided in the last two

preceding Sections, Act XVI. of 1852 is repealed so far as it relates to indictments and proceedings in such Court, except as to offences not punishable under the Indian Penal Code.

Definitions.

"Indictment."

"Finding of the indictment."

Number and gender.

Acts done.

"British India."

"Property."

LVII. In the construction of this Act, unless where a contrary intention appears from the context, the word "Indictment" shall be understood to include information, inquisition or presentment, as well as indictment, and also any plea, replication, or other pleading; and the term "finding of the indictment" shall be understood to include the taking of an inquisition, the exhibiting of an information, and the making of a presentment; and words importing the singular number or masculine gender shall include several persons and parties as well as one person or party, and females as well as males, and bodies corporate as well as individuals, and several matters and things as well as one matter and thing. Words which refer to acts done shall include illegal omissions. The words "British India" shall denote the territories that are or shall become vested in Her Majesty by the Statute 21 and 22 Vic., c. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca; and the word "property" shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed.

Act XIII., 1865, s. 7, directs that the word "Indictment" shall be understood to include "charge."

OUDH CONTRABAND SALT.

ACT No. XIX. OF 1862.

[*Received the assent of the G. G. on the 1st May*, 1862.

Recites expediency of extending to Oudh certain provisions of Acts XIV., 1843, and XXXVI., 1855.

1. Extends to Oudh so much of Act XIV., 1843, as relates to the manufacture

of Alimentary Salt, and the production of illicit manufacture, &c., and Act XXXVI., 1855, from the date on which Act XXXI., 1861, was extended to Oudh

2. Repeals Section IV. of Act XXXVI., 1855, and prescribes instead, mode of proceeding to search zenanahs.

An Act to extend to the Province of Oudh certain provisions of Acts XIV. of 1843, and XXXVI. of 1855, relating to the manufacture of contraband Salt, and to amend the last-named Act.

Preamble

Whereas it is expedient to extend to the Province of Oudh certain provisions of Act XIV. of 1843 (*for regulating the levy of Customs Duties and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal*), and of Act XXXVI. of 1855 (*to empower Officers of Customs and Land Revenue to search houses and other enclosed places for contraband Salt in the North-Western Provinces*), and to amend the last-named Act, it is enacted as follows:

Certain provisions of Act XIV. of 1843, and Act XXXVI. of 1855 extended to Oudh.

I. So much of the said Act XIV. of 1843 as relates to the manufacture of alimentary Salt, and the prevention and punishment of the illicit manufacture and importation of such Salt, and the said Act XXXVI. of 1855, as hereinafter amended shall be held to have been and are hereby extended to the Province of Oudh from the date on which Act XXXI. of 1861 (*to regulate the manufacture of Saltpetre and the Sale of Salt educed in the refinement thereof*) was extended to the said Province in the manner provided in Section XVIII. of the said Act.

Forcible entry into zenanahs

II. Section IV. of Act XXXVI. of 1855 is hereby repealed, and the following Section is enacted in lieu thereof, and shall be read and construed in the same manner as if it formed part of the said Act, namely—

"If the place to be searched is a zenanah or apartment in the actual occupancy of a woman who, according to the custom of the country, does not appear in public, the Officer making the search shall give notice to such woman in such zenanah or apartment that she is at liberty to withdraw, and after giving such notice

and allowing a reasonable time for the woman to withdraw, and affording her every reasonable facility for withdrawing, such Officer may enter such zenanah or apartment for the purpose of completing the search, using at the same time every precaution consistent with these provisions for preventing the clandestine removal of any Salt. Provided that the responsibility for the act, and the determination whether to force an entry or not shall rest with the Officer of Customs or Land Revenue only."

HIGH COURT IN BENGAL.—FEES AND STAMP DUTIES.

ACT No. XX. OF 1862.

[*Received the assent of the G. G. on the 19th July*, 1862.

Recites the establishment of the High Court subsequently to the passing of Act X., 1862, and doubts whether the proceedings of that Court are exempted from Stamp Duties. Also recites expediency of providing that fees and not Stamp Duty shall be paid on such proceedings in respect of business within its ordinary original jurisdiction, and Stamp Duties in its appellate jurisdiction, not being on appeal from its original ordinary jurisdiction, &c. Also recites expediency of paying officers by fixed salaries.

1. Empowers the High Court to prepare a table of fees to be paid in respect of proceedings under its ordinary and original jurisdictions, and on appeal therefrom instead of stamp duties, and to alter, &c., such fees, &c., to be sanctioned by Governor General in Council, and published in "Calcutta Gazette."

2. Extends Schedule B of Act X., 1862, to the High Court in the exercise of its appellate jurisdiction under Section XV., and of its extraordinary original jurisdiction under Sections XIII. and XXIII., or as a Court of Appeal under Sections XXVI., XXVII. of its Letters Patent.

3. Directs that fees received by Officers be paid to Government, &c., at such times as the Court may direct, and that a quarterly account be rendered at dates specified in form, &c., to be prescribed.

4. This Act not to apply to the fees of officers paid by fees, &c.

5. Suspends with the High Court, Sections CLXXXIV., CLXXXV., CLXXXVI., CCCLIX. of Act VIII., 1859, as to the manner of deciding judgment and orders, and empowers the Court to make general rules on these subjects for its Judges.

6. Empowers Court to fix by its own rules, the time for appealing from judgments, &c., of its own Judges in the exercise of their original jurisdiction.

7. Perpetuates the old procedure of judgment upon warrants of attorney and cognovits.

8. Empowers High Court Judges, in the exercise of their original jurisdiction, to order immediate execution for amount adjudicated and for costs afterwards when taxed.

9. Authorizes High Court to admit attorneys to act as Pleaders, except in the function of advocacy in Court.

10. Makes the provisions of this Act applicable to High Courts in Madras and Bombay, when established.

11, 12. Act to take effect from 1st July, 1862, and continue in force till 1st January, 1863.

An Act to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal; and to suspend the operation of certain Sections of Act VIII. of 1859 in the said High Court.

Preamble.

Whereas the High Court of Judicature at Fort William in Bengal, constituted by Her Majesty's Letters Patent, dated the 14th day of May, 1862, was established by the publication of the said Letters Patent subsequently to the date of the passing of Act X. of 1862 (*to consolidate and amend the law relating to Stamp Duties*), and it is doubtful whether the proceedings in the said High Court are excepted from the Stamp Duties imposed by Section XXX. of the said Act X. of 1862, according to the Schedule B thereunto annexed; and whereas it is expedient as a temporary arrangement to provide that Court Fees, and not Stamp Duties, shall be paid in respect of proceedings in, and business coming before, the said High Court in the exercise of its ordinary original jurisdiction, and on appeal from its ordinary original Civil jurisdiction, according to the practice which prevailed in the late Supreme Court of Judicature at Fort William in Bengal, and that Stamp Duties shall be levied on all Instruments and Writings specified as requiring Stamps in the Schedule B annexed to the said Act X. of 1862, which shall be filed, exhibited, or recorded in, or which shall be received or furnished by the said High Court, in the exercise of its appellate jurisdiction, not being on appeal from its ordinary original Civil jurisdiction, or in the exercise of its jurisdiction as a Court of Reference and Revision in Criminal cases, in the same manner as such Stamp Duties were levied in the late Court of Sudder Dewanny and Nizamut Adawlut for the Lower Provinces of the Presidency of Fort William in Bengal; and whereas, by an arrangement

made between the Government and the said Supreme Court, certain Officers of that Court were remunerated for their services by fixed salaries instead of by fees, and the fees received by such Officers were paid to the account of Government, and formed into a general fund, out of which the salaries of such Officers were defrayed, and it is desirable to continue this arrangement in respect to such of the said Officers attached to the said Supreme Court who, as a temporary measure, have been appointed Officers of the said High Court, and in respect to any Officers who may hereafter be appointed to the said High Court; and whereas it is expedient to suspend the operation in the said High Court of certain Sections of Act VIII. of 1859 (*the Code of Civil Procedure*), relating to the manner in which the judgments and orders of the Courts of Civil Judicature are to be recorded, it is enacted as follows:

Court empowered to prepare Tables of Court Fees in respect of business coming before it in the exercise of its ordinary original jurisdiction and on appeal from its ordinary original Civil jurisdiction

I. It shall be lawful for the said High Court of Judicature to prepare and settle Tables of Fees to be received as Court Fees, and to be paid to such Officer or Officers as the said High Court shall direct, in respect of proceedings in, or business coming before such High Court, in the exercise of its ordinary original jurisdiction, and on appeal from its ordinary original Civil jurisdiction, and no Stamp Duties shall be chargeable in respect of such proceedings or other business under Section XXX. of the said Act X. of 1862. The said High Court may from time to time add to or reduce, or alter or amend the Tables of Fees so prepared, as it may deem necessary and proper. Provided that such Tables shall not be inconsistent with the provisions of any law for the time being in force, and provided also that, before such Tables or such amended Tables are issued, they shall have received the sanction of the Governor General in Council. The Tables of Fees so prepared, and any amended Tables shall, as soon as they have received the sanction of the Governor General in Council, be published in the "Calcutta Gazette," and from and after such publication, no other fees than those sanctioned as aforesaid shall be taken by any Officer of the said High Court in respect of any Duty to which such Tables of Fees may relate.

On what sides of the High Court Stamp Duties to be levied

II. No Instrument or Writing of any of the kinds specified as requiring Stamps in the Schedule B annexed to the said Act X. of 1862, shall be filed, exhibited, or recorded in, or shall be received or furnished by, the said High Court of Judicature in any case coming before such Court in the exercise of its appellate jurisdiction under Section 15 of the said Letters Patent, or in the exercise of its extraordinary original jurisdiction under Sections 13 and 23 of the said Letters Patent, or as a Court of Appeal, Reference, or Revision under Sections 26 and 27 of the said Letters Patent, unless such Instrument or Writing be upon a Stamp of a value not less than that indicated by the Schedule B annexed to the said Act X. of 1862, as the proper Stamp for similar Instruments and Writings in the said Sudder Court; anything in Section XXX. of the said Act, to the contrary notwithstanding, but subject to the proviso therein contained.

Fees to be duly accounted for.

III. The fees received by the Officers of the said High Court, under Section I. of this Act, *shall be paid to the account of Government*, and the *Officer* or Officers of the said *High Court*, whose duty it shall be, under the orders of the said High Court, to receive the same, *shall respectively cause all fees received by him* or them to be duly and regularly entered in one or more book or books to be kept for that purpose in their Offices, distinguishing the fees under their several heads, and shall *pay over the fees so received by them* at such time and in such manner as the said High Court with the approval of the Governor General in Council shall direct; *and such Officers shall quarterly*, within one month after the 31st day of March, the 30th day of June, the 30th day of September, and the 31st day of December in every year, *render a true and faithful account in writing to an Officer to be* appointed by the Governor General in Council, *of* all such fees, in such form of account, and with such particulars of receipt or otherwise, and accompanied by such vouchers as the Governor General in Council shall from time to time think proper to direct or require.

Act not to apply to fees allowable to the Sheriff, Attorneys, or Clerks or Officers of the Court, &c

IV. Nothing in this Act shall be held to apply to the fees, to be allowed to the Sheriff, Attorneys, or any Clerk or Officer of the said High Court who shall be paid by fees instead of by a fixed

salary, or to the fees, if any, which such Sheriff, Attorneys, or any Clerk or Officer shall be allowed to receive in addition to any fixed salary.

Parts of Act VIII. of 1859 suspended.

V. The operations of the following Sections of the said Act VIII. of 1859, namely, Sections 184, 185, 186, and 359, relating to the manner in which the judgments of the Courts of Civil Judicature are to be recorded, and so much of the said Act as extends the provisions of the foregoing Sections to the orders of the Courts of Civil Judicature not being judgments or decrees, is hereby suspended in the said High Court; and the said High Court and every Division Court and Judge thereof shall record their judgments and the orders passed by them respectively in such manner as the said High Court shall by any general rule or rules from time to time direct.

High Court to record its judgments and orders as it shall by rule direct.

VI. The High Court may by its own rules fix the time within which appeals from judgments, orders, or decrees made by any Division Court or by any Judge or Judges of the said High Court in the exercise of its original jurisdiction shall be preferred.

Court may fix time for preferring appeals from judgments, &c., of its own Judges or Division Courts.

VII. Judgment may be signed in the said High Court upon every Warrant of Attorney and *Cognovit actionem* upon which a judgment might have been signed in the said late Supreme Court if such Court had not been abolished, and every such judgment may be signed, enrolled, and enforced in and by the said High Court in the same manner, and in the same manner only, as it might have been in the said Supreme Court.

Judgment may be signed in High Court on any warrant of Attorney or *cognovit* on which judgment might have been signed in the Supreme Court.

VIII. Whenever it shall appear necessary to a Judge of the said High Court that a decree made in the exercise of the ordinary original Civil jurisdiction of the said Court ought to be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Judge may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs; and

Execution may issue in certain cases before the amount due for costs has been ascertained, and execution for costs may issue subsequently when their amount is ascertained.

as to so much thereof as relates to the costs, that the same may be executed as soon as the amount thereof shall be ascertained by taxation.

Court in the exercise of its ordinary original Civil jurisdiction may, in certain cases authorize acts required by the Code of Civil procedure to be done by a Pleader to be done by an Attorney.

IX. Whenever anything is directed by the said Act VIII. of 1859 to be done by or through a Pleader, the said High Court or any Judge thereof, in the exercise of the ordinary original Civil jurisdiction of the said Court, may authorize such act to be done by or through an Attorney at Law of the Court. Provided that no Attorney shall be authorized under the provisions of this Section to plead in the said Court or in any Division Court for any person.

Proviso.

Application of Act to the High Courts at Madras and Bombay.

X. This Act shall apply *mutatis mutandis* to the High Courts of Judicature which may be established at Madras and Bombay under Act 24 and 25 Victoria, Chapter 104, for those Presidencies respectively, whenever such Courts shall be established. Provided that the powers vested by this Act in the Governor General in Council shall be exercised in the Presidencies of Madras and Bombay by the Governors in Council of those Presidencies respectively.

Act to have effect from 1st July, 1862.

XI. This Act shall be deemed to have had and to have effect as if it had actually passed and received the assent of the Governor General on the 1st day of July, 1862.

Duration of Act.

XII. This Act shall continue in force until the 1st day of January, 1863. [Continued until the 1st January, 1864, by Act XXIV., 1862.]

MEDICAL OFFICERS' WIDOWS' AND ORPHANS' FUND.

ACT No. XXI. OF 1862.

[*Received the assent of the G. G. on the 24th Nov.*, 1862.

Recites the establishment in 1852 of the above-named fund, and its failure in regard to its objects from specified causes. Enacts—

1—4. Empowers the High Court to wind up the Fund, on petition of specified parties, and to declare rights, take accounts, ascertain claims, &c.; and (2) Court may employ an accountant or actuary, and (3) by consent of parties may order a gross sum to be paid in commutation for pensions; or (4) to set apart sums to pay pensions or to arrange with Life Insurance Company for payment.

5. Empowers guardians of minors to consent on their behalf, and provides for appointment of guardians.

6. Residue of Fund not appropriated to members, &c., may be applied to the class of pensioners.

7. Empowers Court to distribute any probable surplus after providing for pensions.

8. Same mode to be employed to bring in claimants as in ordinary suits for bringing in creditors, and entails the same consequence, in default to come in in due course.

An Act to provide for the dissolution of the Subordinate Medical Officers' Widows' and Orphans' Fund, and the distribution of the Funds belonging thereto.

This Society has been wound up under a decree of the Supreme Court, and the Fund distributed.

EMIGRATION TO SEYCHELLES.

ACT No. XXII. OF 1862.

[*Received the assent of the G. G. on the 27th Nov.*, 1862.

Recites expediency of extending Act XV., 1842, in favor of emigration to Seychelles.

1, 2. Repeals Act XIV., 1839, as respects contracts for emigration to Seychelles, and (2) extends Act XIV., 1842, to cooley emigration to Seychelles.

3. No emigrant to embark for Seychelles without a certificate of his being engaged from the Government Agent countersigned by the Protector of Emigrants.

4. In case of sickness on voyage the emigrants may be taken to the Quarantine Station of Mauritius, and shall there have the option of exchanging their contract for a contract to serve at Mauritius.

5. Act to take effect from time of notification in the "Calcutta Gazette" that Regulations have been complied with.

An Act relating to Emigration to the British Colonial Dependancy of Seychelles.

Repealed by Act XIII., 1864.

CUSTOMS EXPORT AND IMPORT DUTIES.

ACT No. XXIII. OF 1862.

[*Received the assent of the G. G. on the 12th Dec.*, 1862.

1. Act XVIII. of Schedule A and note thereto of Act XI. of 1862 repealed and new article substituted making "Free" Machinery used exclusively for purposes of agriculture, &c.

2. Establishes an *ad valorem* duty of 10 per cent. on spirits used exclusively in arts, manufactures or chemistry, if unfit for use as a beverage, &c.

3. Adds to Schedule A "Fire Wood" as Free.

4. Act to be taken as part of Act XI., 1862.

An Act to amend Act XI. of 1862 (to amend the duties of Customs on goods imported and exported by sea).

Repealed by Act XVII., 1865, and new Schedules substituted.

That Act was repealed by the then Indian Customs Act, Act XXV., 1865, and new duties were established by it. Schedule B of the last-mentioned was repealed by Act XVIII., 1866, and all then existing Customs Duties were repealed by Act XVII., 1867, called "The Indian Customs Duties Act, 1867."

HIGH COURT, BENGAL.—STAMP DUTIES.

ACT No. XXIV. OF 1862.

[*Received the assent of the G. G. on the 24th Dec.*, 1862.

1. Act XX., 1862, to continue in force till 1st January, 1864.

2. High Court may limit by rule time for applications for review of judgment by any of its own Judges.

An Act to continue in force Act XX. of 1862 (to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal; and to suspend the operation of certain Sections of Act VIII. of 1859 in the said High Court.

Preamble.

Whereas it is expedient that Act XX. of 1862 (*to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII. of* 1859 *in the said High Court*) should continue in force for a further period of one year from the 1st day of January, 1863, it is enacted as follows:

Act XX. of 1862 continued till the 1st of January, 1864.

I. Act XX. of 1862 shall continue in force until the First day of January, 1864. [Further continued by Act XXXII., 1863, until time for its expiry is fixed in the Gazette of India.]

High Court may fix the time for applications for reviews of judgment.

II. The following words shall be read as if they had been added to Section VI. of the said Act XX. of 1862 :—The High Court may also, by its own rules, fix the time within which applications for the review of any judgment passed by any Division Court or by any Judge or Judges of the said High Court in the exercise of its original Civil jurisdiction, shall be preferred. [By Act XXVI., 1867, s. 2, this Section (s. 2) shall apply to the High Courts, N. W. Provinces.]

CIVIL PROCEDURE, BRITISH BURMAH.

ACT NO. I. OF 1863.

[*Received the assent of the G. G. on 15th January,* 1863.

1, Repeals existing Code of Civil Procedure in Pegu.

2. Establishes six grades of Courts, besides Recorders' Courts, Small Cause Courts, &c., viz: (1) Extra Assistant of 3rd Class; (2) of 2nd Class; (3) Assistant Commissioner and Extra Assistant of 1st Class; (4) Deputy Commissioner; (5) Commissioner; (6) Chief Commissioner.

3—8. Defines jurisdiction of 3rd Class Extra Assistant; (4) of 2nd Class ditto; (5) of 1st Class ditto; (6) of Deputy Commissioner; (7 and 8) Chief Commissioner; (8) as to special appeals.

9. Every suit to be instituted in Court of lowest grade competent to try it.

10. Authorizes Deputy and Chief Commissioner to take up by transfer to themselves suits from any Court subordinate to them, or to transfer them to any other Court.

11, 12. Suit for land situate in more districts than one may be brought in Court competent as to the land within its jurisdiction, if authorized by Commissioner, &c.; (12) or Commissioners.

13, 14. Establishes appeal from all Courts of original jurisdiction; (14) memorandum of appeal to be filed within times prescribed by Act VIII., 1852, unless further time given.

15. On appeal to Deputy Commissioner and to Commissioner, judgment below may be confirmed without summoning respondent.

16. Application for admission of second appeal under Section 7 to be preferred as under Section 14.

17. Applications for admission of special appeal may be on ground specified in Act VIII., 1859, Section 372, and to be made within what time except for special reasons, and be subject to all the conditions of like appeals to Sudder.

18, 19. No special appeal to lie in any suit cognizable in Small Cause Court, if debt, &c., do not exceed 500 rupees; but (19) on regular appeal in any such case Court may state any question of law or usage for decision of Chief Commissioner, &c.

20. Applications for leave to appeal in *formâ pauperis* to be made on stamp, and within same time as for appeals in other cases.

21. Review of judgment may be applied for in what cases, and within what time.

22. Extends to British Burmah Act XIX., 1841, Act XL., 1858, Act XI., 1861, and cases under them to be decided by Deputy Commissioner, subject to appeal.

23. Except as otherwise provided in this Act, Civil Procedure to be according to Act VIII., 1859.

24. Extends Act XIV., 1859, to Pegu from 1st May, 1863, except as to claims to foreclose under any suit as to which the law of limitation at date of deed to apply.

25. Except as otherwise provided, Chief Commissioner to have same powers as Sudder Court.

26. Except as in Section 20, Stamp Duties under Act X., 1862, to apply.

27. Local jurisdiction of Deputy Commissioner to be deemed a District.

28. Act to commence 1st May, 1863.

An Act to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory.

Preamble.

Whereas it is expedient to define the limits of the jurisdiction of the Courts of Civil Judicature in British Burmah; and whereas it is also expedient that the Code of Civil Procedure should have effect throughout British Burmah subject to certain alterations and provisos, and that provision should be made for extending the operation of certain Acts to the said Territory, it is enacted as follows:

Pegu Civil Code repealed.

I. The Code called the Civil Code of the Province of Pegu is hereby repealed.

Grades of Civil Courts in British Burmah.

II. There shall be six grades of Courts in British Burmah, which shall be in addition to any Recorders' Courts, Courts of Small Causes, or other Courts established under any Act which may be hereafter passed, namely:—

1. The Court of the Extra Assistant of the third class, or the Myooke's Court.

2. The Court of the Extra Assistant of the second class, or the Tseetkay's Court.

3. The Court of the Assistant Commissioner, and the Court of the Extra Assistant of the first class.

4. The Court of the Deputy Commissioner.

5. The Court of the Commissioner; and

6. The Court of the Chief Commissioner.

Jurisdiction of Court of Extra Assistant of 3rd class, or Myooke's Court.

III. The Court of the Extra Assistant of the third class, or the Myooke's Court, shall have power to receive, try and determine suits of every description not exceeding 500 Rupees in value or amount.

Jurisdiction of Court of Extra Assistant of 2nd class, or Tseetkay's Court.

IV. The Court of the Extra Assistant of the second class, or the Tseetkay's Court, shall have power to receive, try, and determine suits of every description not exceeding 3,000 Rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner and of Court of Extra Assistant of 1st class.

V. The Court of the Assistant Commissioner and the Court of the Extra Assistant of the first class shall have power to receive, try, and determine suits of every description not exceeding 5,000 Rupees in value or amount.

Jurisdiction of Court of Deputy Commissioner.

VI. The Court of the Deputy Commissioner shall have power to receive, try and determine suits of every description exceeding 5,000 Rupees in value or amount, and appeals from the decisions, and where an appeal is allowed by the Code of Civil Procedure, from the orders of the Courts of the Extra Assistants of the third class, or the Myooke's Courts, of the Courts of the Extra Assistant of the second class, or the Tseetkays' Courts, and of the Courts of the Assistant Commissioners and Extra Assistants of the first class, in the District of such Deputy Commissioner.

Jurisdiction of Court of Commissioner.

VII. The Court of the Commissioner shall have power to hear and determine appeals from the original decisions, and, where an appeal is allowed by the Code of Civil Procedure or by this Act, from the orders passed by the Courts of the Deputy Commissioners in the Division of such Commissioner. The Commissioner may also receive a second appeal from the decisions of the Courts of the Deputy Commissioners in his Division passed in regular appeal reversing or modifying the decision of the Court of

original jurisdiction, on a point material to the merits of the case, if on a perusal of the grounds of appeal and of the judgments of the Courts below, copies of which judgments shall be filed with the petition of appeal, a further consideration of the case shall appear to him to be requisite for the ends of justice. The decision of the Commissioner on such second appeal, whether for confirming, modifying, or reversing the decision of the lower Appellate Court, shall be final, and no special appeal shall be allowed in such case to the Chief Commissioner from the decision either of the Deputy Commissioner passed in regular appeal, or of the Commissioner of the Division passed on such second appeal. The rejection of an appeal by the Commissioner on a second appeal shall have the same effect as a confirmation of the decree of the lower Court.

Jurisdiction of Court of Chief Commissioner

VIII. The Court of the Chief Commissioner shall, except as provided in the last preceding Section, and in Section XVIII. of this Act, have power to hear and determine special appeals from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

Court in which suit to be instituted

IX. Every suit shall be instituted in the Court of the lowest grade competent to try it.

Transfer of suits

X. It shall be lawful for the Deputy Commissioner to withdraw any suit instituted in any Court subordinate to such Deputy Commissioner, and to try such suit himself or to refer it for trial to any other Court subordinate to his authority and competent in respect of the value of the suit to try the same. And it shall be lawful for the Chief Commissioner or for the Commissioner of a Division to order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to such Chief Commissioner or Commissioner, shall be transferred to any other Courts subordinate to his authority and competent in respect of the value of the suit or appeal to try the same.

Suits for immoveable property situate in different Districts

XI. If the suit be for land or other immoveable property situate within the limits of different Districts within the same Division, the suit may be brought in any Court otherwise competent

to try it within the jurisdiction of which any portion of the land or other immoveable property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same. If the suit is brought in any Court subordinate to the Court of Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situate in Districts subject to different Commissioners.

XII. If the Districts within the limits of which the property is situate, are subject to different Commissioners, the application shall be submitted to the Commissioner to which the District in which the suit is brought is subject, and the Commissioner to which such application is made may, with the concurrence of the Commissioner to which the other District is subject, give authority to proceed with the suit.

Appeal to lie from all decisions, except when expressly prohibited.

XIII. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorised by this Act to hear appeals from the decisions of those Courts.

Memorandum of appeal to be presented to the Appellate Court within specified time.

XIV. The Memorandum of appeal prepared in the form and containing the particulars mentioned in the Code of Civil Procedure, shall be presented in the Court empowered to hear the appeal, within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the Memorandum of appeal within such period, that is to say, within thirty days if the appeal lie to the Court of a Deputy Commissioner, and six weeks if the appeal lie to a Commissioner of a Division. The period shall be reckoned from and exclusive of the day on which the judgment appealed against was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree from which the appeal is made. Appeals from orders, when such appeal is allowed by the Code of Civil Procedure, or by this Act, shall be presented within the same period as appeals from decisions.

XV. In cases of appeal preferred to a Deputy Commissioner under Section VI., or to a Commissioner under Section VII. of this Act, it shall not be necessary to summon the Respondent in the first instance, and if upon the perusal of the judgment of the Court below, of the whole or any part of the record of the original suit, and of the petition of appeal in the presence of the Appellant or of his duly constituted Agent, the Deputy Commissioner or the Commissioner, as the case may be, shall see no reason to alter the decision appealed from, it shall be competent to him to confirm the same, recording his reasons for rejecting the appeal. In such case the Deputy Commissioner or the Commissioner shall cause the order for confirmation to be made known to the respondent through the Court from whose decision the appeal was made.

Deputy Commissioner and Commissioner may confirm decision of lower Court appealed from without summoning the respondent.

XVI. Applications for a second appeal under Section VII. of this Act, shall be preferred in the manner and within the period prescribed in Section XIV. for regular appeals to the Commissioner of a Division, and if the Commissioner shall see fit to admit any such second appeal, it shall be heard and determined in every respect as an ordinary regular appeal.

Procedure as to second appeals.

XVII. Applications for the admission of a special appeal, which the Chief Commissioner is empowered by Section VIII. of this Act to receive and determine, may be on any of the grounds specified in Section 372 of the Code of Civil Procedure. The application shall be presented within ninety days, reckoned from and exclusive of the day on which the judgment of the lower Appellate Court was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree appealed against, unless the applicant shall show sufficient cause to the satisfaction of the Chief Commissioner for not having presented the application within such period. The application shall be subject to all the conditions, whether as regards Stamp duty, remission of a portion thereof when the application is made in *formâ pauperis*, or otherwise, contained in the said Code in cases of application for the admission of a special appeal to the Sudder Court.

Applications for the admission of special appeals.

No special appeal from decision of any Court in suits cognizable in Small Cause Courts.

XVIII. No special appeal shall lie from any decision or order which shall be passed in regular appeal by any Court after the passing of this Act, in any suit of the nature cognizable in Courts of Small Causes under Act XLII. of 1860, when the debt, damage, or demand for which the original suit shall be instituted shall not exceed the sum of five hundred Rupees.

Reference of question to the Chief Commissioner.

XIX. If in any case of regular appeal in which under the last preceding Section no special appeal is allowed, or in any case of second appeal admitted under Section VII. of this Act, any question of law or usage having the force of law, or the construction of a document affecting the merits of the case shall arise, on which the Court trying the appeal shall entertain reasonable doubts, the Court may, either of its own motion or on the application of either of the parties to the appeal, draw up a statement of the case, and submit such statement with its own opinion for the decision of the Chief Commissioner. The provisions contained in Sections 29 to 34 of Act XXIII. of 1861 (*to amend Act VIII. of* 1859, *for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter*), shall be applicable to the statement so submitted, and the Chief Commissioner shall proceed in the case under the rules contained in the said Sections for the direction of the Sudder Court so far as the same are applicable.

Applications to appeal in *forma pauperis*.

XX. Applications to be allowed to appeal in *formâ pauperis* shall be written on stamp paper of the value of one Rupee if the appeal lie to the Court of the Deputy Commissioner, and on stamp paper of the value of two Rupees if the appeal lie to the Court of the Commissioner or to the Court of the Chief Commissioner, and shall be presented in the Court competent to receive the same within the period prescribed by this Act for the presentation of appeals from decisions, or when the application is made to the Chief Commissioner within the period prescribed by this Act for the presentation of an application for the admission of a special appeal.

On what grounds review of judgment may be applied for.

XXI. Any person considering himself aggrieved by a decree of a Court of original jurisdiction from which no appeal shall have been preferred to a

superior Court, or by a decree passed in appeal from which no second or special appeal shall have been admitted, or by a decree of the Court of the Chief Commissioner from which either no appeal shall have been preferred to Her Majesty in Council, or an appeal having been preferred, no proceedings in the suit shall have been transmitted to Her Majesty in Council, and who from the discovery of new matter or evidence which was not within his knowledge, or could not be adduced by him at the time when such decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against him, may apply for a review of judgment by the Court which passed the decree. Such application shall be presented within the period of ninety days from the date of the decree sought to be reviewed, unless the applicant shall show good and sufficient reason for not presenting it within such period.

Time for presentation of application for review

XXII. Act XIX. of 1841 (*for the protection of moveable and immoveable property against wrongful possession in cases of successions*), Act XL. of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*), and Act IX. of 1861 (*to amend the law relating to Minors*), are hereby extended to British Burmah. All cases or proceedings arising under the said Acts or under Act XXXV. of 1858 (*to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Court of Judicature*) or Act XXVII. of 1860 *for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), shall be received and determined by the Deputy Commissioner of the District, subject to the provisions in the said Acts contained respectively as to jurisdiction and otherwise. All orders passed by the Deputy Commissioner in such cases or proceedings shall be open to appeal to the Commissioner of the Division, provided that no such appeal shall be allowed unless it be presented within thirty days from the date of the order appealed against, or unless the

Extension of certain Acts to British Burmah

Trial of cases or proceedings under the above and other Acts.

Appeal.

party making the appeal can show good and sufficient cause to the satisfaction of the Commissioner for not presenting the appeal within such period. The order of the Commissioner on any such appeal shall be final.

Procedure of Civil Courts in British Burmah to be regulated by Code of Civil Procedure.

XXIII. Except as is in this Act otherwise provided, the proceedings in Civil suits of every description between party and party brought in the Courts of Civil Judicature in British Burmah mentioned in Section II. of this Act, shall be regulated by the said Code of Civil Procedure, and except as otherwise provided by this Act or by any Law which may hereafter be passed, by no other Law or Regulation.

Act IX. of 1859 extended to Pegu.

XXIV. Act XIV. of 1859 (*to provide for the limitation of suits*), as amended by Act XIV. of 1862, is hereby extended to the Province of Pegu, and shall take effect therein from the date on which this Act comes into operation in British Burmah in supersession of any law of limitation in force in the said Province. Provided that all suits pending in any of the Civil Courts in the said Province upon the date upon which this Act comes into operation in British Burmah shall, so far as regards the provisions in this Section contained, be tried and determined as if this Act had not been passed. Provided also that Clause 15 of Section I., of the said Act XIV. of 1859, shall not apply to any claim to foreclosure arising under any deed or instrument of mortgage of immoveable property in Pegu executed before the date aforesaid, but every such claim arising under any such deed or instrument shall, so far as the law of limitation is concerned, be governed by the laws or rules of limitation now in force in that province.

Powers vested in Sudder Court to be exercised by the Chief Commissioner.

XXV. Except as otherwise provided in this Act, the powers vested in the Sudder Court by the Code of Civil Procedure, shall be exercised in British Burmah by the Chief Commissioner.

Levy of Stamp Duties.

XXVI. Except as provided in Section XX. of this Act, the Stamp Duties prescribed by Schedule B., annexed to Act X. of 1862 (*to consolidate and amend the law relating to Stamp Duties*) for Instruments and Writings in the Sudder Court and the Courts subordinate to the

Sudder Court, shall be chargeable on Instruments and Writings in the Court of the Chief Commissioner and the several Courts subordinate to the Chief Commissioner.

Construction of District Court as used in Code of Civil Procedure.

XXVII. The local jurisdiction of a Deputy Commissioner shall be deemed a District for the purpose of this Act, and the Court of such Deputy Commissioner shall be deemed the District Court within the meaning of the Code of Civil Procedure.

Commencement of Act.

XXVIII. This Act shall come into operation on the 1st day of May, 1863.

APPEALS TO PRIVY COUNCIL FROM NON-REGULATION PROVINCES.

ACT No. II. OF 1863.

[*Received the assent of the G. G. on the 15th January*, 1863.

1. Such appeal when admitted by Court below to be under same rules as like appeals from Regulation Provinces.

2, 3. Empowers Court below to admit appeals to Privy Council from interlocutory orders; (3) Court to give notice to opposite party of admission of appeal.

4, 5. Court may order execution on judgment appealed against, taking security, &c., or may stay execution on taking security; and (5) in either case shall require appellant to give security for costs.

6. Entitles an appellant to apply to Court for assistance in obtaining full benefit from admission of his appeal.

7, 8. Court may require increased security pending an appeal if by change of circumstances the original security has become inadequate; and (8) in case of such security not being given, the Court may make same order as if no original security were given.

9—11. Court to transmit two certified copies of the proceedings to H M. in Council; (10) at the expense of the appellant; and (11) until deposit to cover such expenses is made, appeal not to be considered as admitted.

12, 13 Either party on application may obtain authenticated copies of papers on payment of expense; also (13) of local regulation.

14—16. Judgment of Court above to be enforced by Court in which suit was brought; (15) upon petition of party interested; but (16) order for enforcement to be subject to appeal.

17. Saves from appeal order for enforcement if Court above has ordered enforcement of decree.

18. Saves power of H. M. in Council to receive or reject appeals.
19. Interprets words "British India."

An Act to regulate the admission of appeals to Her Majesty in Council from certain judgments and orders in Provinces not subject to the General Regulations.

Preamble

Whereas it is expedient to regulate the admission of appeals to Her Majesty in Council from certain judgments and orders in Provinces not subject to the General Regulations, it is enacted as follows:

Admission of appeal.

I. If a party in a suit is desirous of preferring an appeal to Her Majesty in Council from any final judgment, decree, or order made on appeal or revision by the Court of highest Civil jurisdiction in any Province in British India not subject to the General Regulations, or from any such final judgment, decree, or order made in the exercise of original jurisdiction by the said Court, in any case in which the sum or matter at issue is above the amount or value of 10,000 Rupees, or in which such judgment, decree, or order shall involve, directly or indirectly, any claim, demand, or question to or respecting property amounting to or of the value of 10,000 Rupees, or from any other final judgment, decree, or order made either on appeal or otherwise as aforesaid, when the said Court shall declare that the case is a fit one for appeal to Her Majesty in Council, such Court shall admit such appeal subject to such rules and orders as shall be in force, or shall from time to time be made in that behalf by Her Majesty in Council in respect of such appeals from Her Majesty's High Courts of Judicature in British India.

Appeal from interlocutory judgments.

II. It shall further be lawful for such Court, at its discretion, upon the petition of any party who considers himself aggrieved by any preliminary or interlocutory judgment, decree, or order of such Court in any such proceeding as aforesaid (not being of Criminal jurisdiction), to grant permission to such party to appeal against the same to Her Majesty in Council, subject to such rules, regulations, and limitations, as shall be in force, or as shall from time to time be declared by Her Majesty respecting appeals from final judgments, decrees, and orders, of Her Majesty's said High Courts of Judicature.

III. On the admission or permission of the appeal by the Court as hereinbefore provided, the Court shall forthwith cause notice to be given to the other party, that the Appellant has preferred an appeal to Her Majesty in Council.

Notice of appeal to the other party.

IV. The Court, if applied to, may either order the judgment or determination appealed against to be enforced, taking sufficient security for the performance of such order or decree as Her Majesty in Council may make on the appeal; or it may direct, on similar security being found, that no order for enforcing the judgment or determination shall be issued pending the appeal, and that, if any such order has been issued, it shall, so far as it has not been executed, be suspended.

Court may either enforce judgment taking security, or suspend execution pending appeal.

V. In either of the cases mentioned in the last preceding Section, the Court shall require the Appellant to find security for the payment of such costs as it may think likely to be incurred by the appeal.

Appellant to find security for costs of appeal.

VI. If a party who is desirous of preferring an appeal to Her Majesty in Council in any of the cases mentioned in Section I. or Section II. of this Act, shall require the assistance of the said Court for obtaining security from the other party for staying execution of the judgment, decree, or order, that has been passed, or for any other purpose, he shall present his petition to the said Court within six calendar months from the date of the judgment, decree, or order appealed against.

Time for presentation of petition of appeal.

VII. If at any time pending an appeal under this Act, the security taken from either party appears inadequate, whether from the increase or improvement of the property forming the subject of appeal, or from the insufficiency of the securities, the Court before which the appeal is pending may, on the application of the other party, require further security.

If security be found inadequate, Court may require it to be increased.

VIII. In default of such further security being found, if the original security was furnished by the Appellant, the Court may issue an order for enforcing the judgment or determination appealed against as if

If additional security be not furnished.

no such original security had been given; and if the original security was furnished by the Respondent, the Court, so far as may be practicable, shall compel him to deliver up the property forming the subject of appeal, which shall be disposed of in conformity with such of the rules in force as may be applicable to the particular case.

Proceedings in the suit appealed to be forwarded to Her Majesty in Council.

IX. In every case of appeal under this Act the Court shall certify and transmit to Her Majesty in Council under the seal of the Court, two true and correct copies of all evidence, proceedings, judgments, decrees, and orders had or made in the case appealed, so far as the same have relation to the matters of appeal, together with a copy of the reasons given by such Court for or against the judgment or determination appealed against.

Expense of copying and translating papers in appeals to be paid by Appellants.

X. The expense of preparing the two aforesaid copies, and of translating into English so much of the original documents as may not be in that language, shall be defrayed by the party prosecuting the appeal.

Court to require a deposit for such expense as a preliminary to admission of appeal.

XI. The Court shall cause the deposit by the Appellant, within the time allowed for furnishing security of costs of appeal, of such a sum as shall be sufficient to cover the expense of making the two aforesaid copies, and when such deposit shall have been made, and not till then, shall declare the appeal admitted, and give notice thereof to the Appellant and Respondent respectively.

Either party, on paying for the same, may obtain copy of any paper.

XII. Either party, on application, may obtain one or more authenticated copies of any of the papers in the suit on paying the reasonable expenses incurred in preparing them.

And of any local regulation or law.

XIII. Either party, in like manner, may obtain an authenticated copy of any local regulation or law which he may require in the appeal.

Decrees of Her Majesty in Council, how to be executed.

XIV. The orders or decrees of Her Majesty in Council, when duly certified, shall be enforced and executed, under the directions of the said Court, by the Judge or Officer by whom the

suit was originally tried, in the manner and according to the rules and laws applicable to the execution and enforcement of original orders or decrees made by such Judge or Officer.

Execution, how to be obtained.

XV. Any party desirous of enforcing or obtaining execution of any such decree or order made in appeal as aforesaid, shall present a petition for that purpose to the Court which made the first decree or order appealed from, and the said petition shall be accompanied by a certified copy of the decree or order made in appeal, and sought to be enforced or executed.

Appeal from order of enforcement.

XVI. An appeal shall lie from any decree or order made by such last mentioned Court relating to the enforcement or execution of any such decree or order made in appeal as aforesaid in the same manner and subject to the same laws, rules, and regulations as an appeal from an order or decree made upon a petition for the enforcement of execution of the decree or order first appealed from, would have been.

Court of highest Civil jurisdiction may execute decrees by order of Her Majesty in Council.

XVII. Nothing herein contained shall be construed so as to prevent the said Court of highest Civil jurisdiction from enforcing or obtaining execution of a decree or order made or passed by Her Majesty in Council, if Her Majesty in Council shall think fit to decree or order the said Court to enforce or execute the same.

Saving of Her Majesty's power as to receiving or rejecting appeals

XVIII. Nothing in this Act contained shall be understood to bar the full and unqualified exercise of Her Majesty's pleasure upon all appeals to her, either in rejecting any she may consider inadmissible, or in receiving any she may judge admissible.

Interpretation of "British India."

XIX. The words "British India" denote the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic., c. 106, entitled "An Act for the better Government of India."

STRAITS' SETTLEMENTS.—POLICE FORCE AND POLICE LAW.

ACT No. III. OF 1863.

[*Received the assent of the G. G. on 15th January*, 1863.

Recites expediency of amending the Regulations of the Police Force.

1. Repeals Act XLVIII., 1860, Section 3, but repeal not to revive Act XIII., 1856, Section 15.

2. Policemen to be engaged to serve for five years, and not to be entitled to resign within the period, &c.

3. Imposes penalty on Police for desertion, absence, &c., viz., forfeiture of pay, &c.

4. Imposes penalty on persons keeping hotels, taverns, and drinking shops without license; but not to apply to sale of drugs, &c.

5, 6. Empowers Commissioner of Police to grant licenses for houses of public resort and entertainment; securing good behaviour; preventing drunkenness, &c.; keepers of such houses not to be licensed to supply provisions, &c., without an Abkaree license; and (6) imposes penalty on breach of conditions of license.

7. Act to be read as part of Act XIII., 1856, and to come into operation 1st March, 1863.

Schedule. Form of Declaration.

An Act to amend the Law for regulating the Police of the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Preamble.

Whereas it is expedient to amend the law for regulating the Police of the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca, it is enacted as follows:

Section III. of Act XLVIII. of 1860 repealed.

I. Section III. of Act XLVIII. of 1860 (*to amend Act XIII. of* 1856, *for regulating the Police of the Towns of Calcutta, Madras and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*), shall cease to have any effect in any of the said Stations from the time when this Act shall come into operation, provided that nothing in this Section shall be held to revive the operation of Section XV. of the said Act XIII. of 1856.

Members of the Police Force to sign a declaration that they will serve for a certain period.

II. No person shall be enrolled a member of the Police Force in any of the said Stations, who shall not sign a declaration, in the form provided in the Schedule to this Act, that he will serve as

a Member of such Force for such period, not exceeding five years, as shall be fixed by the Commissioner of Police of such Station acting under the orders of the Governor of the said Settlement; and no person who shall have signed such declaration shall be at liberty to resign his Office, or withdraw himself from the duties thereof, except with the permission of the Governor of the said Settlement, to be granted on a Certificate of ill-health from a Medical Officer of Government, or on a special recommendation of such Commissioner of Police. Provided that nothing in this Section shall interfere with the power of such Commissioner of Police, under Section X. of the said Act XIII. of 1856, to suspend or dismiss any member of the Police Force whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Penalty for deserting or withdrawing service

III. Every Member of the Police Force in any of the said Stations, who shall have signed the declaration hereinbefore mentioned, and who shall desert or withdraw himself from such Police Force, by absenting himself from duty without reasonable excuse for a period exceeding twenty-four hours, or otherwise, shall, on conviction before a Magistrate, forfeit all arrears of pay and allowances that may be due to him at the time of such desertion or withdrawal, and be liable to a fine not exceeding six months' pay and allowances, and on failure of payment thereof to imprisonment, with or without hard labor, for a period not exceeding one month if such fine be not sooner paid; or to imprisonment, with or without hard labor, for a period not exceeding three months; or to both fine and imprisonment.

Penalty for keeping Taverns and places of public entertainment without a license from the Commissioner of Police.

IV. Whoever in any of the Stations of the Straits' Settlement has, or keeps, any Hotel, Tavern, Punch-house, Ale-house, Arrack or Toddy-shop, or place for the sale or consumption of Gunja, Chundoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, or any Eating-house Coffee-house, Boarding-house, Lodging-house, or other place of public resort and entertainment, wherein provisions, liquors, or refreshments are sold or consumed (whether the same be kept or retailed therein or procured elsewhere), without a license from the Commissioner of Police of such Station, shall be liable to a fine not

exceeding twenty-five Dollars for every day that such unlicensed house or place of any kind is kept open, or that such unlicensed sale is continued; provided that nothing in this Section shall apply to the sale, in reasonable quantities, of any drug, plant, or substance in any Druggist's or Chemist's shop for medicinal purposes only.

Licenses by Commissioner of Police for keeping Taverns and places of public entertainment.

V. The Commissioner of Police in each of the said Stations shall, from time to time, grant licenses to the keepers of such houses or places of public resort or entertainment as aforesaid in the said Stations respectively, and upon such conditions to be inserted in every such license, as he with the sanction of the Local Government, from time to time, shall order, for securing the good behaviour of the keepers of the said houses or places of public resort and entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same, and the said licenses may be granted by the said Commissioner for any term not exceeding one year; provided always, it shall not be lawful for the said Commissioner to grant a license to open, or establish, or keep open any house of public entertainment in which any provisions, liquors, or refreshments of any kind, or in which any Gunja, Chundoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, may be sold or consumed, to any person who has not taken out a license for the retail sale of such articles, if a license be necessary, under the Abkaree or Excise Laws for the time being in force; and any such license granted by the Commissioner shall become void whenever the license necessary under the Abkaree or Excise Laws shall terminate or be recalled. And every holder of such license may be required by the Commissioner to fix, in a conspicuous part of the house or place specified in the license, a board, on which shall be legibly painted, in the English and Vernacular languages, the name of the holder and the articles he is licensed to deal in. For every license granted under this Section there shall be levied a fee of one Dollar.

License to be granted only to persons who have taken out the requisite Abkaree license.

Fees on licenses.

Penalty for breach of license.

VI. A breach of the conditions of a license granted under the last preceding Section shall, besides forfeiture of the license, be punishable by a fine not

exceeding fifty Dollars, and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.

VII. This Act shall be read and taken as part of the said Act XIII. of 1856, and shall come into operation on the 1st day of March, 1863.

Construction of Act.

SCHEDULE.

FORM OF DECLARATION.

I, A. B., do hereby declare that, in consideration of my being enrolled a Member of the Police Force of , I will serve in such Force for a period of years.

Witnesses. [Signed] A. B.

C. D.

E. F.

TREATY WITH BURMAH.

ACT No. IV. OF 1863.

[*Received the assent of the G. G. on the 29th January*, 1863.

Recites 4th and 8th Articles of Treaty with King of Ava, viz., 4th stipulates that a duty of one per cent. shall be paid on goods imported for Burmese consumption, and if merely for transit through Burmese territories to be duty free; and 8th, stipulates for mutual abolition of British and Burmese duties at Thayet Myo and Tounghoo, Maloon and Tounghoo.

To give effect to the Treaty enacts—

1, 2. Imposes on imports into Rangoon 1 per cent. *ad valorem*, if for export to Burmese territory; and (2) such goods to be under charge of Customs officer in course of transit.

3. Empowers G. G. in C. to order discontinuance of other duties.

4. Act to take effect from time of ratification of treaty.

An Act to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor General of India, and His Majesty the King of Burmah.

Whereas a Treaty has been negotiated between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor General of India, and His

Preamble.

Majesty the King of Ava, and in the 4th and 8th Articles of the said Treaty it is stipulated and agreed as follows:—

Article 4th.—"When goods are imported into Rangoon from "any British or Foreign Territory, and declared to be for "export by the Irrawaddy river to the Burmese Territory, the "English Ruler shall, provided bulk is not broken, and he "believes the Manifest to be true, charge one per cent. on "their value, and if he so desires shall allow them to be conveyed "under the charge of an Officer until arrival at Maloon and "Menhla. The Tariff value of goods shall be forwarded yearly "to the Burmese Ruler. If such goods are declared for export "to other Territories and not for sale in the Burmese Territories, "the Burmese Ruler shall, if he believes the Manifest to be "true, not cause bulk to be broken, and such goods shall be free "of Duty.

Article 8th.—"Should the British Ruler within one year "after the conclusion of this Treaty abolish the Duties now "taken at Thayet Myo and Tounghoo, the Burmese Ruler, "with a regard to the benefit of the people of his country, will, "if so inclined, after one, two, three, or four years, abolish the "Duties now taken at Maloon and Tounghoo (in the Burmese "Territory)."

And whereas it is necessary to give effect to the stipulations and engagements aforesaid by an Act to regulate the Duties of Customs at the Port of Rangoon and elsewhere in conformity to such stipulations and engagements, it is enacted as follows:

Duty on goods imported into Rangoon from British or Foreign Territory limited to one per cent. *ad valorem*.

I. When any goods are imported into Rangoon from any British or Foreign Territory, whether under bond or otherwise, and declared by the importer thereof to be for export by the Irrawaddy river to the Burmese Territory for sale therein, or for export through such Territory for sale in other Territories, such goods may be entered at the Custom House at Rangoon for such export and sale, and thereupon a duty of Customs of one per cent. *ad valorem* and no more, shall be charged, provided that bulk of such goods is not broken, and the Officer in charge of the Custom House is satisfied of the truth of the entry of such goods in the Manifest of the Vessel wherein such goods are brought to Rangoon.

II. Whenever any goods are entered at the Custom House at Rangoon under the last preceding Section, such goods may be conveyed to Maloon and Menhla under charge of an Officer to be appointed for the purpose, and the Officer so appointed to the charge of such goods shall be held to be a public servant within the meaning of Section 186 of the Indian Penal Code.

Conveyance of goods imported as above to Maloon and Menhla.

III. It shall be lawful for the Governor General of India in Council, by a Notification to be published in the "Calcutta Gazette," to order the discontinuance of the Duties or any of them now levied at Thayet Myo and Tounghoo, and subsequently, if it shall see fit, by a like Notification to order that such Duties, or any of them, shall be revived and re-imposed, and any order made and published under this Section shall have the force of law.

Governor General may discontinue duties now taken at Thayet Myo and Tounghoo.

IV. This Act shall take effect from the time when the ratifications of the said Treaty are exchanged.

Commencement of Act.

Supplemented by Act XII., 1864.

ARTICLES OF WAR FOR NATIVE ARMY.

Act No. V. of 1863.

[*Received the assent of the G. G. on the 29th January*, 1863.

Recites expediency of amending Act XXIX., 1861.

1. Repeals Sections 1 to 17, and Section 27 of Bombay, Reg. XXII., except Sections 3 and 7, as to small suits before bazaar superintendents, and Chapter 6 of same Reg., and Bombay Reg., 1829.

2. Repeals Articles 2, 32, 73, 78, 82, 117, 166 of Act XXIX., 1861, and substitutes new ones. Article 3 regulates dismissal and discharge; Article 32 respecting offences against religion; Article 73 respecting powers of Commander-in-Chief to appoint Courts Martial; Article 78 respecting death, transportation and imprisonment, dismissal, suspension or reduction to ranks; corporal punishment, imprisonment, or solitary confinement; punishment for disgraceful conduct; Article 82 as to powers of officers commanding detachment in punishing offences; Article 117 as to effect of trial once; Article 166 as to Regulations respecting Bazaar and Cantonment Police, and Punchayet.

3. Adds a paragraph to Article 103 of Act XXIX., 1861.

4. Act to be read as part of Act XXIX., 1863.

An Act to amend Act XXIX. of 1861 (*to consolidate and amend the Articles of War for the government of the Native Officers and Soldiers in Her Majesty's Indian Army*).

Preamble.

Whereas it is expedient to amend certain Articles of War enacted in the said Act XXIX. of 1861, it is enacted as follows:

Sections repealed.

I. Sections I. to XVII., and Section XXVIII. of Regulation XXII. of the Bombay Code (*to declare and define Military Authority in its relations to the Civil Power and to the Community at large*) except Sections III. and VII., in so far as they regulate the jurisdiction, in small suits, of the Superintendents of Bazaars; Chapter VI. of the same Regulation; and Regulation II. of 1829, of the Bombay Code (*for establishing Rules and Articles for the better government of the Native Officers and Sepoys in the service of the United Company of Merchants of England trading to the East Indies under the Presidency of Bombay*), are hereby repealed.

Repeal of Articles 3, 32, 73, 78, 82, 117 and 166.

II. The Articles of War, numbered respectively 3, 32, 73, 78, 82, 117, and 166 in the said Act XXIX. of 1861, are hereby repealed, and in lieu thereof the following Articles of War shall be read and taken as Articles 3, 32, 73, 78, 82, 117, and 166 respectively, of the said Act XXIX. of 1861.

ARTICLE 3.

Dismissal and discharge.

A Non-Commissioned Officer or Soldier shall be liable to dismissal or discharge by order of the Governor General of India in Council, or of the Governor in Council, or the Commander-in-Chief of the Presidency to which he belongs; and the said Commander-in-Chief shall have power to reduce any Non-Commissioned Officer to the ranks.

Discharge and reduction by Commanding Officer.

The Commanding Officer of a Regiment or Corps shall have power to dismiss or discharge any Soldier below the rank of a Non-Commissioned Officer, and to dismiss, discharge, or reduce to the ranks any Non-Commissioned Officer belonging to such Regiment or Corps.

Every such dismissal or discharge shall involve forfeiture of claim to pension.

No Non-Commissioned Officer shall be reduced to the ranks for any stated period, nor suspended from his rank, nor reduced from a higher to a lower grade of Non-Commissioned Officer.

Proviso as to reduction and suspension.

Every Non-Commissioned Officer or Soldier discharged the service shall be furnished by the Commanding Officer of the Regiment or Corps to which he belonged with a discharge Certificate in the Vernacular language of such Non-Commissioned Officer or Soldier. Such certificate shall express the authority for, and cause of, the discharge, and the period of the entire service in the Army of such Non-Commissioned Officer or Soldier, and shall be accompanied with an English translation.

Certificate of discharge.

ARTICLE 32.

Who shall wantonly and intentionally defile any place dedicated to religious worship, or shall wantonly and intentionally insult the religious feelings of any person.

Defiling place of religious worship.

ARTICLE 73.

The Commander-in-Chief of the Presidency may appoint a General or other Court Martial, and may confirm, mitigate, or commute or remit the sentence of such Court. He may issue his Warrant to any General or other Officer under his command, having the command of any body of Troops in the service of Her Majesty, empowering such Officer to appoint District or Garrison Courts Martial, as occasion may require, for the trial of any offence committed by any Officer or Soldier, or Follower in the Service of Her Majesty, not being a European British subject of Her Majesty; and to confirm and mitigate, or commute or remit the sentence of any such Court Martial. No sentence, adjudging or involving forfeiture of additional pay or of claim to pension on discharge, or of any prospective advantage, shall be carried into effect until sanctioned by the Commander-in-Chief of the Presidency to which the offender belongs. The Commander-in-Chief may remit any forfeiture awarded, and may order the restoration of any advantage of which the offender has been deprived by such forfeiture.

Powers of the Commander-in-Chief to appoint Courts Martial.

ARTICLE 78.

Death, transportation, or imprisonment.

A General Court Martial may sentence for any crime, which by these Articles is made liable to such sentence, any Officer to death or to transportation for life, or for any period not less than seven years, or in cases falling under Article 22 or Article 66, to imprisonment with or without hard labor for any period not exceeding three years, with or without solitary confinement; or may sentence any Soldier to death, or to transportation for life, or for any period not less than seven years, or to imprisonment for any period not exceeding fourteen years, for any crimes which are by these Articles of War expressly made liable to any such sentence and for such crimes only. No Court Martial inferior to a General Court Martial shall have power to pass a sentence of death, or transportation or imprisonment for any longer period than three years.

Punishment of Commissioned Officers.

Dismissal, suspension, or reduction to ranks.

A General Court Martial may sentence a Commissioned Officer to be dismissed the service; or to be suspended from rank and pay and allowances for a stated period; or to be placed one or more steps lower in the list of his rank, by an alteration of the date of the Commission, and such Officer shall lose the corresponding benefit of length of service.

No Court Martial inferior to a General Court Martial shall have power to try a Commissioned Officer.

Punishment of Non-Commissioned Officers and Soldiers.

Reduction to ranks, corporal punishment, imprisonment, or solitary confinement.

A General, or District, or Garrison, or Regimental Court Martial may sentence a Non-Commissioned Officer to be reduced to the ranks; or may sentence a Non-Commissioned Officer or Soldier to be dismissed the service; or to be placed one or more steps lower in the list of the rank which he holds, whereby such Non-Commissioned Officer or Soldier shall lose the benefit of the corresponding length of service; or to suffer corporal punishment not exceeding fifty lashes; or to imprisonment which may be with or without hard labor, and which may include solitary confinement for any portion or portions of such imprisonment, not exceeding fourteen days at a time, nor eighty-four days

in any one year, with intervals between the periods of solitary confinement of not less duration than such periods of solitary confinement.

No Soldier shall be kept in solitary confinement more than eighty-four days in any one year, whether by the sentence of one or more Courts Martial, or by order of the Commanding Officer of the Regiment or Corps to which such Soldier belongs.

No sentence of imprisonment shall be awardable by a General Court Martial for any period exceeding two years (except when otherwise expressly provided); nor by a District or Garrison Court Martial for any period exceeding one year; nor by a Regimental Court Martial for any period exceeding six calendar months.

No Non-Commissioned Officer shall be sentenced to imprisonment or corporal punishment without being first reduced to the ranks.

Punishment for "Disgraceful Conduct."

Forfeiture of pay or pension in addition to corporal punishment or imprisonment.

A General, or District, or Garrison Court Martial may, in addition to corporal punishment or to imprisonment, sentence a Soldier convicted of disgraceful conduct to forfeiture of all advantage as to additional pay and claim to pension on discharge, which otherwise might have accrued from the length or nature of his former service; or to forfeiture of such advantage absolutely, whether it may have accrued from past service, or might accrue from future service.

No Soldier shall be tried for disgraceful conduct by any Court Martial inferior to a District or Garrison Court Martial.

Forfeiture and stoppages in addition to dismissal

A Court Martial may, in addition to any punishment involving dismissal or discharge, sentence any Officer or Soldier, whom it is authorized to try, to forfeiture of arrears of pay and allowances due at the time of dismissal or discharge, or of such portion thereof as may be required to make good any loss or damage arising out of his misconduct. A Court Martial, in addition to any punishment not involving dismissal or discharge, may sentence any Officer or Soldier to be put under stoppages not exceeding, in the case of an Officer two-thirds of his pay and allowances, and in the case of a Non-Commissioned Officer or

Soldier one-half of his pay and allowances until any loss or damage arising out of his misconduct be made good.

Forfeiture of pay during confinement.

Every Soldier subjected to confinement in the Quarter Guard or Defaulter's Room, or in a Solitary Cell, or in any other place of imprisonment, whether as a punishment by his Commanding Officer or on a charge of which he shall be afterwards convicted by Court Martial, shall forfeit all claim to pay and allowances during such confinement, and shall be entitled to receive subsistence only according to the rates laid down in the Regulations.

ARTICLE 82.

Powers of Officers Commanding Detachments in punishing offences.

An Officer Commanding a Detachment of his own Regiment or Corps may assemble a Regimental Detachment Court Martial; and an Officer Commanding a Detachment consisting of men of different Regiments or Corps, may assemble a Detachment or Line Court Martial. Every Court so assembled shall be constituted in the manner provided for a Regimental Court Martial under the provisions of these Articles of War, and shall have the like powers.

The provisions of these Articles of War which relate to a Court Martial held in a Regiment or Corps shall, in all practicable cases, be taken to apply to a Court Martial held in a Detachment.

No Officer on detached command of less than three Troops or Companies, or of a Detachment not numerically equal to three Troops or Companies, and not being on the line of march or on board a ship or other vessel, shall carry into effect any punishment awarded by a Court Martial held by his order, until the sentence shall have been confirmed by the Officer Commanding the Regiment or Corps to which the offender belongs, or by the nearest Superior Officer holding a command of not less than a Regiment, who is hereby authorized to confirm every such sentence in like manner as an Officer Commanding a Regiment or Corps might do. Provided that in detached situations beyond the Sea, or out of the British Territories in India, or when on service in the field, or in cases where an immediate example is necessary, and reference cannot be made

to such Commanding or Superior Officer without detriment to the service, the Officer Commanding such Detachment may exercise the powers relating to Courts Martial which are vested in an Officer Commanding a Regiment or Corps.

Clause 2.

The Commanding Officer of any Detachment of not less than three Troops or Companies, or of any Detachment numerically equal to or greater than three Troops or Companies; and the Commanding Officer of any European Detachment to which native details are attached (of whatever strength or number such European Detachments, or such native details may be); and any Commissary of Ordnance, being a Commissioned Officer, or other Commissioned Officer in Charge of any Arsenal, Ordnance Establishment, or any Camp Equipage Depôt, may summarily try any offence against these Articles of War, committed by any person under his command or who is subject to such Articles (not being a Commissioned Officer; and may on conviction sentence such offender and carry out such sentence without confirmation or any further authority; provided that such sentence shall not exceed the powers of a Regimental Court Martial.

In detached situations beyond the Sea, or out of the British Territories in India, or when on service in the field, or in cases where an immediate example is necessary, and a Court Martial cannot be convened under Clause 1 of this Article without detriment to the service, and reference cannot be made without such detriment to the Officer Commanding the Regiment or Corps to which the offender belongs, or to any other Superior Officer holding a command not less than that of a Regiment, the Officer Commanding any Detachment though of less than three Troops or Companies, or not numerically equal to three Troops or Companies, may exercise the powers of summary trial, of sentencing the offender, and of carrying out such sentence, which might have been exercised by the Officer Commanding the Regiment or Corps to which the offender belongs. Provided that, if reference can be made to any other Superior Officer holding a Command not less than that of a Regiment, such reference shall be made, and such Officer thereupon shall have authority summarily to try, and, in case of conviction, to sentence

the offender, and to carry out such sentence as if the offender had been under his command.

Any Commanding Officer or other Officer holding a trial under this Article shall be deemed a Court Martial, and the words "Court Martial" in these Articles of War, shall be deemed to include such Commanding Officer or other Officer holding a trial.

The proceedings of such summary trial shall be conducted, so far as may be practicable, and shall be recorded in the same manner as is provided in Article 81 for summary trials by an Officer Commanding a Regiment or Corps, and shall, in like manner, be signed and forwarded to the Officer Commanding the Division within which such Detachment shall be at the time, who is hereby authorized to set aside the trial for the same reasons that an Officer Commanding a Division is authorized by Article 81 to set aside a trial by an Officer Commanding a Regiment or Corps. Provided that every sentence so awarded by an Officer Commanding any such Detachment, or by any other Officer holding a trial under this Article, may be carried out without waiting for its approval by the Reviewing Officer.

ARTICLE 117.

No person to be tried a second time for the same offence.

No person who shall have been acquitted or convicted by a Court Martial of any offence, shall be liable to be tried a second time by the same or any other Court Martial for the same offence. Provided that any person may be tried for the offence of murder, and punished for that offence, notwithstanding he may have been tried and punished for the act which caused death, if at the time of his conviction for the said Act death shall not have resulted, or shall not have been known by the Court which passed sentence to have resulted.

When any person subject to these Articles of War shall have been found guilty by a Court Martial of any Military offence, such Court Martial shall enquire into and receive evidence of any previous conviction of such person before a Court Martial or a Court of Justice, and shall enquire into the general character of such person, if a Soldier, for the purpose of apportioning the punishment to which he is liable to be sentenced for the offence

of which he has been so found guilty. And it shall be necessary to give any notice to such person, previously to his trial, that such evidence will be received.

ARTICLE 166.

Regulations respecting Bazaar and Cantonment Police, and Punchayets, declared in force.

The Regulations by which in any Presidency the office and powers of Commissariat Officers, or Officers in charge of the Police in any Cantonments, or Superintendents of Military Bazaars, are at present defined and controlled, or by which Punchayets are constituted and guided, shall continue to be in full force, and to be observed at the several Presidencies respectively.

III. The following additional Clause shall be read as the second paragraph of Article 103, of the said Act XXIX. of 1861.

Every witness during attendance on a Court Martial, and during the time necessary for going and returning shall be privileged from arrest in any Civil proceeding, and if arrested in any such proceeding, may be discharged by order of such Court Martial.

IV. This Act shall be read and taken as part of the said Act XXIX. of 1861.

Construction.

By Act XXVI., 1865, Article 83 of Act XXIX., 1861, was repealed, and a new Article substituted.

CONSOLIDATED CUSTOMS ACT.

ACT NO. VI. OF 1863.

[*Received the assent of the G. G. on the 29th January*, 1863.

Recites expediency of consolidating and amending laws relating to the administration of Sea Customs in India.

1. Act to be called the Consolidated Customs Act.

2. Repeals the Bengal Regs. IX., 1810; VI., 1814; XXI., 1817; XV., 1825; XV., 1829; III., 1830; VI., 1833; and Acts XIV. and XXV., 1836; XVI., 1837; VII., 1841; XIII., 1841; XXIII., 1841; XXV., 1843; Sections 17 to 41 and 46 to 68 of Act VI., 1844; Section 3 of Act VI., 1848; VII., 1848; X., 1850; I., 1852; XXIX., 1855; VII., 1859; Section 3 of Act XXII., 1859; Sections 3 and 4, Act X., 1860; and Section II., Act XXIII., 1860.

3. Interprets the words, British India; Local Government; Chief Customs authority of the Presidency or place; Chief Officer of Customs of the Port; Officer in charge of the Custom House; Magistrate; Free Port; Foreign Port; Foreign Goods; Vessel; Coasting Vessel; Master or Commander; Warehouse; of Number; of Gender.

GENERAL RULES.

4, 5. Authorizes Chief Customs authority of any Presidency, &c., to make rules for department; such rules to be published, &c.; (5) also rules respecting passengers' baggage and mails.

6. Disputes between Customs officers and parties to be adjudicated by Chief Customs officer, subject to appeal, &c.

APPOINTMENT OF OFFICERS, PORTS, &c.

7, 8. Authorizes Local Government to appoint, suspend, and dismiss proper officers; or (8) to delegate this power.

9. Constitutes Collector of Revenue and his subordinate Customs officers where no others appointed.

10. Authorizes Local Government to appoint ports, wharves, &c.

11, 12. Authorizes the G. G. in C. to declare free ports; and (12) like power for certain purposes beyond British India.

13. Establishes penalty for shipping, &c., at any place, &c., not declared a port.

14, 15. Empowers Local Government to declare warehousing ports; at which (15) goods may be deposited without payment of duty on entry.

LEVY OF AND EXEMPTION FROM DUTIES.

16—20. Import duties, and (17) export duties to be levied at rates prescribed by law; but (18) neither to be levied on goods carried by sea from one port to another; and (19) Government may exempt by special order, goods under exceptional circumstances; and (20) officers may pass baggage in actual use.

GENERAL PROVISIONS.

Prohibitions.

21. Prohibits (1) pirated editions of copy-right books; (2) false and counterfeit coin; (3) obscene books, &c.

22. Prohibits importation of arms and ammunition except under license, and by sportsmen in small quantities.

23, 24. Empowers G. G. in C. to prohibit by notice importation or exportation of particular goods; and (24) establishes a penalty on contravention of the prohibition, besides confiscation of the goods.

25. Legalizes importation and exportation of any goods not prohibited, and any such goods may be warehoused under rules.

26, 27. Owner, importer, exporter, or other party concerned to declare the value of goods imported and exported, and, in case of doubtful value, officer to use means of ascertaining it; and (27) undervalued goods may be detained, at valued price, for Government, &c., or owner may be allowed to amend valuation.

28. Makes goods liable to forfeiture for misdescription at Custom House.

29, 30. Date of entry for home consumption at Custom House to be taken as the date of importation, when date required to be fixed; and (30) date of entry for exportation to be taken as date of exportation, when date material

31. Country produce re-imported from foreign port to be deemed foreign, unless ownership has remained unchanged.

32. Authorizes Chief Customs authority of Presidency or place to appoint stations or places for Custom officers to board or land.

IMPORTATION.

33—37. Authorizes Government to fix limits within which report or manifest must be delivered to pilot or officer; and (34) imposes penalty not exceeding 1,000 rupees for wilful omission to deliver report or manifest and (35) if vessel remains outside the limits, the commander is to deliver report or manifest to pilot; and (36) report, &c., to be delivered to pilot, &c., within twenty-four hours after arrival at port if no limits appointed, and on default to be liable to penalty; and (37) pilot, &c., refusing to receive report to be liable to a penalty of 500 rupees.

38. Imposes penalty, 1,000 rupees, on vessel removing from place of unlading without authority of Master Attendant, &c.

39, 40. Authorizes Chief Customs authority to appoint stations for officers to board vessels arriving from foreign ports; and (40) imposes penalty, 1,000 rupees, on Master not bringing to, &c., at such stations.

41—45. Empowers Custom House officer in charge to depute officer to board any vessel on arriving who is to remain on board day and night until otherwise ordered; and (42) imposes penalty, 500 rupees per day, on Master refusing to receive such officer on board; and (43) bound to receive with officer, officer's servant, &c., under penalty of 500 rupees, &c.; and (44) entitles such officer to have free access to every part of the ship, and to have closed receptacles opened and searched, and goods concealed shall be liable to confiscation; and (45) Master resisting servants, or breaking officer's seal, to be liable to 1,000 rupees.

46. No vessel to break bulk till manifest has been delivered, &c., nor until order given for discharge; and such order may be refused till port clearance, &c., from the port of departure, &c., has been given up.

47. Master, &c., if required, must deliver to officer, bill of lading or copies thereof of cargo, and answer questions respecting cargo, and in case of false bill of lading, &c., Master to be liable to penalty, 1,000 rupees.

48, 50. Goods not manifested, or in excess of manifest, &c., to be reported, and liable to confiscation; and (49) if goods manifested are not on board, &c., and deficiency be not accounted for, the Master to be liable to penalty; but (50) these provisions not to prevent amendment of manifest, &c.

51—54. Allows fifteen days for landing import cargo not exceeding 600 tons, and one day more for every 50 tons above, &c.; and (52) directs what shall be done with cargo not taken by consignees; and (53) time may be enlarged by Customs' officer; and (54) if goods not taken by consignee within time specified in bill of lading, Master may land them at the Custom House, and Custom House shall give receipt.

55. At any time after arrival small parcels of goods may be landed by consent, &c.

56. Directs procedure for duties in case of non-payment within four months of entry of vessel.

57. Goods for home consumption, not cleared within two months after landing to be sold for duties, and overplus paid to owner, &c.

58. Goods not to be landed on Sundays or holidays, nor out of fixed hours, except by order, &c., and baggage.

59—61. Goods carried in landing to other than appointed landing place; or (60) to other than appointed wharf, to be confiscated; and (61) with each boat load of goods a boat note specifying particulars shall be sent.

62—64. Regulates the entry of goods for home consumption; and (63) imposes penalty on goods being taken out without previous entry, except passenger's baggage; and (64) makes goods liable to confiscation if fraud on removal intended.

65, 66. No claim for abatement of duty on account of damage to be allowed, unless small in value, and certified by Custom House appraiser, &c.; and (66) regulates the manner of making abatement.

67. Derelict goods brought to port to be subject to duty.

68. Custom officer may order goods brought by sea to be weighed and measured for duty.

69. Exempts from duty import cargo intended for another port and ships' stores, but such cargo and stores to be entered in export manifest.

WAREHOUSING.

70—72 Authorizes the warehousing of goods at warehousing port without payment of duty; (71) in public warehouses under lock and key; and (72) on terms as to rent, &c., to be fixed by Chief Customs authority.

73—75. At warehousing ports, private warehouses may be licensed for warehousing, on (74) application in Form A in Schedule; and (75) applications for warehousing them shall be in Form B in Schedule.

76. Directs that goods, before being warehoused, shall be assessed for duty, and warehouse keeper to be answerable for weight or gauge of goods, &c.

77—79. On bonding imports, &c., to enter into a bond for duties; (78) for twice the amount of the duties, with interest; and (79) bond to extend to three years.

80—82. Imposes penalty of confiscation on goods carried into warehouse contrary to orders; (81) regulates the manner of receiving goods into the warehouse; and (82) imposes penalty for any mis-description of goods by which revenue might have suffered.

83. Goods when admitted to warehouses to be marked, &c., and if not marked, &c., liable to confiscation.

84—86. Warehouse keeper liable to penalty if goods not stowed so as to admit easy access; and (85) if he does not produce goods on requisition of officer; and (86) goods if concealed liable to be confiscated.

87. Officer may order goods to be opened, &c., and may seal them.

88. Officer to have free access to private warehouse.

89. Seven days after demand of duty on bond, license to warehouse may be withdrawn.

90. Owners, &c., of goods to have access to them in presence of officer.

91. Clandestine opening of warehouse to be liable to penalty.

92. Owners of goods may, under rules, repack, &c., goods, fill up casks, &c., mix wines, &c., take samples, &c.

93, 94. Owners, &c., not entitled to compensation for loss or damage, except incurred through wilful act or neglect of warehouse keeper; but (94) duties may be remitted on goods lost, &c., by unavoidable accident, &c.

95—97. Import duty to be paid according to register at time of importation, except as to ullage on wines, &c., rates of which as per table; and (96) private warehouse keepers to be liable to penalty for deficiency, except as to wines, &c.; and (97) for goods in excess of registered quantity extra duty to be paid.

98, 99. Prohibits removal of goods from warehouse except under Custom House pass; (99) to be obtained on application in Form D.

100. Bonder to pay duty and be liable to penalty, 1,000 Rupees, in case of removal of goods without pass, &c.

101, 102. Expenses of carriage, &c., to and out of warehouse, to be added to duties; and (102) goods may be sold for rent and dues in case of non-payment.

103. Full duty to be paid on goods removed from warehouse otherwise than for export.

104. Goods may be detained in bond for duty, and bond enforced on goods sold.

105—107. Authorizes removal of goods from one public warehouse to another by permission; and (106) from one port to another; and be re-warehoused on execution of fresh bond for duty; and (107) officers of port whence removed to transmit an account of particulars.

108. Authorizes a general bond for duties on removal from port to port.

109. Same laws and registrations to apply to goods removed as if originally imported.

110. Goods may be transhipped in one port for another port without payment of duty on entering into bond for duty at port of destination.

111. Goods from warehouse of one port, after being re-warehoused at new port, may be entered either for home consumption or exportation.

112. Goods on removal from bond to be noted on bond.

113. Directs a register of all bonds to be kept at Custom House.

114. Prohibits credit for duties beyond three years from date of warehousing.

115. This Act to apply to all warehouses of the Bengal Bonded Warehouse Association.

EXPORTATION.

116. Entry outwards must be obtained before export cargo is put on board, &c.

117. Directs the number of days (fifteen) for shipment of outward cargo, for vessel not exceeding 600 tons, &c., and after expiration of time allowed, vessel to be charged with expenses.

118. Prohibits shipment of cargo except on specified days, and times, and places.

119. Goods brought for shipment must be examined by Customs officers.

120—122. Authorizes Customs House authorities to send officer on board while vessel is clearing from port; and (121) imposes penalty on Master refusing to receive officer; and (122) officer's servant.

123. Prohibits shipment, &c., of goods until delivery of bill in Form F at Customs House.

124. Exporter to give security for landing certain goods at place for which they are entered, &c.

125—129. Export cargo to be sent on board with a boat-note signed, &c.; and (126) no ship to depart without port clearance; and (127) no pilot to take charge of ship without port clearance; and (128) Master in applying for port clearance to deliver manifest, &c., of cargo; and (129) port clearance may be refused until manifest, &c., are delivered.

130. Goods entered in export manifest, and not duly shipped, &c., liable to confiscation.

131, 132. On goods shipped after application for port clearance, extra duty shall be charged; and (132) duty paid on goods afterwards released may be returned.

133, 134. Chief Customs authority may appoint station for Customs Officers to land from outgoing ship; and (134) imposes penalty on Masters not bringing to at such station.

135, 136. Regulates transhipment of goods from vessel returning to port, &c., without having discharged cargo, and regulates duties on such goods; and (136) permits such goods to be relanded under rules.

DRAWBACK.

137—143. Directs what amount of duty paid shall be returned as drawback on exportation, and on what conditions; and (138) where and within what time claim for drawback must be made; and (139) drawback not to be allowed on goods valued at less than drawback claimed; nor (140) upon goods not included in manifest; nor (141) on goods exported from one port to another, not being a free port; and in every case goods on which drawback is claimed must be identified as the goods on which duty was paid; and (142) person claiming drawback must make declaration respecting same; and (143) drawback goods, if not exported, &c., to be liable to confiscation.

144—147. Drawback to be allowed on all wines intended for consumption of officers of navy as per scale; on (145) conditions specified; and (146) officers' wine may be transhipped from one ship to another for same officers; and (147) such wine to be confiscated if not laden on board ship for which it is intended.

148. Provisions and stores for H. M. Navy to be passed free of duty.

COASTING TRADE.

149, 150. Goods merely in coasting trade not to be subject to coasting duties but opium, salt, certain spirits, &c., not included in the exemption; and (150) drawback not to be allowed on goods in coasting vessel.

151. Authorises Local Government, under Government of India, to make regulations for coasting trade, subject to penalties.

152. Prohibits shipping or landing of good except by written permission on Sundays or holidays, or at places other than those appointed.

153. Directs what cargo boats shall be kept by Masters of coasting vessels, and penalty for breach of rules.

154. Coasting Pass in Form G to be made out by Master, and duplicate signed by officer, before vessel departs from port.

155. Custom House officer may refuse port clearance to vessel declared for port in India, unless bond is given, with conditions declared in this Section.

156. Authorizes officer to give a general pass for ports and intermediate ports, and to revoke same.

157. Pass to be delivered within twenty-four hours after arrival at port of discharge, under penalty.

158, 159. Excisable goods not to be unladen without permission; and (159) prescribes penalty for breach of this rule.

160. Authorizes Customs officer to board coasting vessel, and examine cargo, &c.

CARGO BOATS.

161, 162. Authorizes the Local Government to give the exclusive right to ply to registered cargo boats; (162) licenses to be issued by Custom House authority.

SPIRITS.

163—168. Authorizes the Customs authorities to provide rules for removal of spirits manufactured by English method, without payment of excise duty, under bond; (164) such spirits to be taken direct from distillery to Custom House; (165) and there be gauged and proved; (166) and drawback and duty, &c., regulated accordingly; and (167) drawback of excise duty to be allowed on exportation; (168) unless exported to Indian port.

169. Spirits of this kind exported from one Indian port to another to pay Customs duties at port of destination.

170. Rum shrub, cordial, &c., to pay duty according to the quantity of spirit contained in it.

171. Spirits bonded for excise duty may be taken out for exportation.

172. No drawback allowed after duty paid, nor on bonded spirits unless shipped from Custom House.

173. Imposes penalty on person relanding spirits without special pass.

AGENTS.

174, 175. No person to act as agent at Custom House, without Custom House authority; and (175) person acting as agent may be required to produce his authority.

DUPLICATE BILLS OF ENTRY.

176, 177. Upon entry or clearance for importation or exportation, duplicate bill of entry or shipping bill to be delivered to officer; (177) under penalty, 200 Rupees, on failure.

TAKING OF SAMPLES.

178. Authorizes Customs Officers to take samples.

MISCELLANEOUS.

179, 180. Authorizes Government to fix value of Articles liable to *ad valorem* duty; and (180) directs how value to be taken, if not fixed by tariff of values.

181. Directs by whom expense of piling, &c., timber, &c., shall be borne.

182, 183. Authorizes transhipment of stores from one ship to another without duty, if both belong to the same owner; and (183) exempts ship's stores from duty, if going to foreign port.

184. Directs that in case of dispute respecting the amount of duty, the amount shall be deposited pending reference to the Chief Customs authority.

185. Duty short-levied by mistake to be made up, and refunded by mistake to be paid back, &c.

186. No refund to be made unless claimed within six months.

187. Incidental expense of unshipping, &c., for Custom House purposes to be borne by the owner of the cargo.

188. Compensation for loss or injury to goods while detained by Custom House, not to be made, unless such loss, &c., was occasioned by wilful act or neglect of officer.

189. Authorizes rates to be fixed for Custom House wharfage.

190. Saves anchorage and harbour dues, and special duties on opium, &c.

191. Regulates charge for duplicate of Custom House document.

192. Authorizes Commissioner or Collector of Customs to exempt himself or officer on public grounds from serving on jury or inquest.

OFFENCES AND PENALTIES.

193. Penalty on commanders of tug-steamers or pilot vessels receiving or discharging any goods without due authority.

194. Penalty for shipping, landing, concealing, &c., contrary to Act.

195. Vessels in Port with a cargo, and afterwards found in ballast, and cargo unaccounted for, liable to confiscation.

196. The confiscation of any vessel shall include her tackle, apparel and furniture; of goods, the package and all contents thereof, and the horse, boat, &c., used in the conveyance of them.

197. Port clearance may be refused till payment of any penalty due from the person in charge, or owner of the vessel, &c.

198. Persons suspected of offences against Customs law may be detained.

199. Vessels, goods, and persons may be seized or detained.

200. Vessels and goods seized, how to be dealt with.

201. Persons detained to be taken to nearest Magistrate or Officer of Custom House.

202. Persons taken before a Justice for offence under Customs Acts may be detained or admitted to bail.

203. Any person escaping may be afterwards detained.

204. Persons in Her Majesty's Navy when detained, to be secured on board until warrant procured.

205. When seizure is made, seizing officer to give reason in writing.

206. Procedure in respect of goods seized on suspicion.

207. Officers of Customs may stop carts, &c., and search for goods on reasonable suspicion.

208. Magistrate of District may issue search warrant on application.

209. Persons may be searched on reasonable suspicion.

210. Persons before search may require to be taken before a Magistrate, &c.

211. Penalty for searching persons on insufficient grounds.

212. Customs officers, if guilty of breach of duty, how punishable.

213. Customs officers committing or conniving at frauds how punishable.

214. No suit or proceeding to be commenced without notice, or after stated interval.

215. Punishment for obstruction to Customs officers.

216. Penalty for making false declaration, refusing to answer questions, &c.

217. Penalty for unauthorized declaration to value of goods.

218. Officer in charge of Custom House may adjudge confiscations and penalties.

219. Local Government may confer like powers on other officers of Customs.

220. Appeal from subordinate to Chief Customs authority.

221. Penalty under this Act not to interfere with punishment which may be inflicted under any other law.

222. Offences not specially provided for how to be adjudicated.

223. Penalty adjudged by Magistrate, &c., may be remitted or commuted by Chief Customs authority.

224. How payment of penalty to be enforced.

225. Periods of imprisonment, in default of payment of penalty or fine, to be fixed within certain limits.

226. Imprisonment to terminate upon payment of the fine.

227. Or upon payment of proportional part of fine.

228. On confiscation of vessel or goods, property to vest in Her Majesty.

229. Appropriation of penalties, &c., and grant of rewards.

230. Act to commence from 1st May, 1863.

SCHEDULE OF FORMS.

A.—H. Application for license for private warehouse. B. Application to warehouse goods. C. Bond for import duty. D. Application to remove goods from warehouse; and E. from one warehouse to another. F. Shipping Bill. G. Coasting Pass. H. Bond for the removal of spirits from licensed distillery.

An Act to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.

Preamble.

Whereas it is expedient that the laws relating to the administration of the Department of Sea Customs in India should be consolidated and amended, it is enacted as follows:

I. This Act shall be called the Consolidated Customs Act.

Title.

II. From and after the date on which this Act shall come into operation, Regulation IX., 1810, of the Bengal Code (*for rescinding the whole of the Regulations at present in force for the collection of the Government Customs in the Provinces of Bengal, Behar, Orissa, and Benares, and in the Ceded and Conquered Provinces; and for re-establishing those Customs with amended Rules for the collection of them*), Regulation VI., 1814, of the said Code (*for modifying certain parts of Regulation IX.*, 1810 *and Regulation I.*, 1812), Regulation XXI., 1817, of the said Code (*for modifying and explaining certain parts of Regulation IV.*, 1815, Regulation XV., 1825, of the said Code (*to make certain alterations in the rates of Duty charged, and Drawbacks allowed on Goods Imported or Exported by Sea at the Port of Calcutta or any other place within the Territories immediately subordinate to the Presidency of Fort William, and to amend and consolidate the rules in force relative to such Duties and Drawbacks*), Regulation XV., 1829, of the said Code (*for altering the mode of valuing Goods Imported by Sea with a view to the assessment of Customs Duties thereon*), Regulation, III., 1830, of the said Code (*for amending part of the rules of Regulation XV.*, 1829, *and likewise for better enforcing the payment of Duty on the Exportation of Goods by Sea*), Regulation VI., 1833, of the said Code (*for rescinding part of Regulation XV.*, 1829, *and for enacting other rules in the case of Goods imported by Sea*), Acts XIV. and XXV. of 1836, Act XVI. of 1837, Act VI. of 1841 (*for prohibiting the Importation of Rum and Rum Shrub into the Presidency of Fort William in Bengal*), Act XIII. of 1841 (*for explaining the provisions of Act No. XXV. of* 1836), Act XXIII. of 1841 (*for prohibiting the Importation of Rum and Rum Shrub into the Presidency of Fort St. George in Madras*), Act XXV., 1843 (*for making the provisions of 5 and 6 Vic., c. 47, Section XI., applicable to India*), Section XVII. to XLI., and Sections XLVI. to LXVIII. of Act VI. of 1844 (*for abolishing the levy of Transit or Inland Customs Duties, for revising the Duties on Imports and Exports by Sea, and for determining the price at which Salt shall be sold*

Laws repealed.

for home consumption within the Territories subject to the Government of Fort Saint George), Section III. of Act VI. of 1848 (*for equalizing the Duties on Goods Imported and Exported on Foreign and British Bottoms, and for abolishing Duties on Goods carried from Port to Port in the Territories subject to the Government of the East India Company*), Act VII. of 1848 (*to except certain Free Ports from the operation of Section III. of Act VI. of* 1848, *and otherwise to amend that Act*), Act X. of 1850 (*to declare Aden a Free Port*), Act I. of 1852 (*for the consolidation and amendment of the laws relating to the Customs under the Presidency of Bombay*), Act XXIX. of 1855 (*for amending Act No. VI. of* 1844), Act VII. of 1859 (*to alter the Duties of Customs on Goods Imported or Exported by Sea*), Section III. of Act XXII. of 1859 (*to amend Act I. of* 1852, *for the consolidation and amendment of the laws relating to the Customs under the Presidency of Bombay*), Sections III. and IV. of Act X. of 1860 (*to amend Act VII. of* 1859, *to alter the Duties of Customs on Goods Imported or Exported by Sea*), and Section II. of Act XXIII. of 1860 (*to amend Act XXI. of* 1856, *to consolidate and amend the laws relating to the Abkaree Revenue in the Presidency of Fort William in Bengal*)—are repealed; except in so far as they repeal the whole or any part of any other Regulation or Act; or relate to Duties leviable on Salt or Opium; and except as to any act done, offence committed, or liability incurred before the date on which this Act shall come into operation.

Interpretation.

III. The following words and expressions in this Act have the meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction:

"British India."

1. The words "British India" denote the Territories that are or shall become vested in Her Majesty by the Statute 21 and 22 Vic., c. 106 (entitled "An Act for the better government of India"), except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"Local Government."

2. The words "Local Government" denote the persons authorized to administer Executive Government in any part of British India; or the Chief Executive Officer of any part of British India under the

immediate administration of the Governor General of India in Council, when such Chief Executive Officer shall by an order of the Governor General in Council, published in the Official Gazette, be authorized to exercise the powers vested by this Act in a Local Government.

"Chief Customs Authority of the Presidency or place."

3. The words "Chief Customs Authority of the Presidency or place," denote the persons authorized to exercise, under any Local Government, the chief control in the Department of Customs in any Presidency or place.

"Chief Officer of Customs of the Port."

4. The words "Chief Officer of the Customs of the Port" denote the Executive Officer of highest rank in the Department of Customs in any Port.

"Officer in charge of the Custom House."

5. The words "Officer in charge of the Custom House" include every Officer of Customs who is for the time being authorized to have separate charge of a Custom House.

"Magistrate."

6. The word "Magistrate" includes every Officer exercising the powers of a Magistrate.

"Free Port."

7. The words "Free Port" denote any Port at which no Duties of Customs are leviable.

"Foreign Port."

8. The words "Foreign Port" include any Port situated beyond British India, and any Free Port.

"Foreign Goods."

9. The words "Foreign Goods" include all goods not produced or manufactured in British India.

"Vessel."

10. The word "Vessel" includes any thing made for the conveyance by water of human beings or property.

"Coasting Vessel."

11. The words "Coasting Vessel" denote any Vessel plying between one Port in British India, not being a free Port, and another Port in British India not being a free Port, without touching at any intermediate Foreign Port.

"Master or Commander."

12. The words "Master or Commander" include every person, except a Pilot, having command or charge of any vessel.

"Warehouse."

13. The word "Warehouse" denotes any place approved, appointed, or licensed for the keeping and

securing of goods entered to be warehoused without payment of Duty on the first entry thereof.

14. Words importing the singular number include the plural number, and words importing the plural number include the singular number.

Number.

15. Words importing the masculine gender include females.

Gender.

General Rules.

IV. It shall be competent to the Chief Customs Authority of any Presidency or place, with the sanction of the Local Government, to make and issue rules for regulating the practice and proceedings of Officers in the Department of Sea Customs; and from time to time to add to, alter, or revoke such rules; or any of them; provided that no rule so made shall be inconsistent with any provision of this Act, or of any other law for the time being in force. Any rules made under this Section shall be published in the Official Gazette.

Making, issuing, and publishing of rules.

V. Any rules made under the last preceding Section may include such rules as appear expedient for the landing and shipping of passengers' baggage and the passing of the same through the Custom House, and for the landing, shipping, and clearing of parcels forwarded by Her Majesty's or other Mails, or by other regular packets and passenger vessels. When any baggage or parcels are made over to an Officer of Customs for the purpose of being landed, a fee of such amount as the Local Government shall from time to time direct, shall be chargeable thereon, as compensation for the expense and trouble incurred in landing and depositing the same in the Custom House.

Also rules respecting passengers' baggage and mails.

VI. If any dispute shall arise between any Officer of Customs and any Master or Commander of a vessel, or importer, exporter, owner, or consignee of goods, or agent, or other person, in respect to any matter (not specially provided for by any law for the time being in force) relating to the importation, exportation, or warehousing of any goods, or to the levy of any duty or penalty thereon, or to any seizure or forfeiture thereof, the Chief Customs Authority

Appeals how and by whom to be adjudicated.

of the Presidency or place in which such dispute shall have arisen shall settle the same, subject to an appeal to the Local Government, acting under the general instructions of the Governor General of India in Council.

APPOINTMENT OF OFFICERS, PORTS, WHARVES, WAREHOUSES, &c.

Local Government to appoint the necessary Officers.

VII. The Local Government of every Presidency or place in which Duties of Sea Customs are levied, shall appoint such persons as it may deem proper to exercise the powers conferred, and to perform the duties imposed by this Act. Every person so appointed shall be liable to be suspended or dismissed by the Local Government which appointed him.

Local Government may delegate its powers to other Customs Authority. Subordinate Officers liable to be suspended or dismissed by the Authority appointing them.

VIII. The Local Government may delegate to any Authority within its jurisdiction in the Department of Customs the whole or any portion of the powers vested in it by the last preceding Section. Every subordinate Officer who is appointed by virtue of such delegated power, shall be liable to be suspended or dismissed by the Authority which appointed him.

The Collector of Revenue of District to perform duties of Customs Officer where there is no separate Customs Officer.

IX. At any Port or place at which there is no Officer in charge of a Custom House, the Collector of Revenue of the District and the Officers subordinate to such Collector shall be deemed to be the proper Officers for the performance of all duties required by this Act to be performed by an Officer in charge of a Custom House and other Officers of Customs.

Local Government may from time to time appoint Ports and Wharves for shipment and landing, and may alter, &c.

X. The Local Government of any Presidency or place may from time to time declare, by notice in the Official Gazette, the places within such Presidency or place which alone shall be Ports for the shipment and landing of goods; and may declare the limits of such Ports; and may appoint proper places therein to be Wharves for the landing and shipping of goods; and may declare the bounds and extent of any such Wharf; and may from time to time alter the limit of any Port

or Wharf; and may alter the name thereof. Every Port and Wharf which shall have been declared and appointed, or which shall be existing as such, at the date on which this Act shall come into operation, shall continue to be such Port or Wharf, until the Local Government shall otherwise declare by notice in the Official Gazette.

Existing Ports and Wharves to continue in use until otherwise ordered.

XI. The Governor General of India in Council may, from time to time, declare, by notice in the Official Gazette, that any Port in British India shall be a Free Port, at which no Duties of Customs shall be levied on the importation or exportation of goods by Sea.

Governor General in Council may declare Free Ports.

XII. The Governor General of India in Council may, from time to time declare, by notice in the Official Gazette, that any Port on the Continent of India, though such Port be situated beyond British India, shall be regarded as a British Indian Port, for the purposes of Section XVIII., of Section CXLI., and of Sections CXLIX. to CLX. of this Act, in so far as the said Sections or any of them are capable of being applied with respect to such Port; and may in like manner from time to time by notice in the Official Gazette revoke or suspend the operation of any such declaration. So long as any such declaration shall be in force in respect to any Port, goods exported thereto from any Port in British India, or imported therefrom at any Port in British India, shall, as regards warehousing, drawback, and all other matters for which provision is made in any part of this Act, be treated in all respects like similar goods exported from one Port in British India to another such Port, or imported at one Port in British India from another such Port.

Governor General may declare that an Indian Port not in British India shall be regarded as a British Indian Port for certain purposes.

XIII. If any goods be landed or shipped, or if an attempt be made to land or ship any goods, or if any goods be brought into any bay, river, creek, or arm of the Sea, for the purpose of being landed or shipped at any Port or place, which, at the date of such landing, shipment, attempt, or bringing, shall not have been declared to be, or shall not be existing as a Port for the landing and shipment of goods, such goods shall be liable to confiscation,

Penalty for landing or shipping goods at unauthorised Port, &c.

together with any ship, boat, carriage, or other means of conveyance engaged in such landing or shipment, or attempt to land or ship, or bringing for the purpose of landing or shipment.

Local Government may declare Warehousing Ports and places.

XIV. The Local Government of any Presidency or place may from time to time declare, by notice in the Official Gazette, that any Port or place within such Presidency or place shall be a Warehousing Port or place for the purposes of this Act; and every Port which, at the date on which this Act shall come into operation, shall have been declared to be or shall be existing as a Warehousing Port, shall continue to be a Warehousing Port under this Act, until the Local Government shall otherwise declare by notice in the Official Gazette.

Existing Ports to continue in use until otherwise declared.

Approval, appointment, and licensing of Warehouses.

XV. In any Warehousing Port or place the Chief Customs Authority of the Presidency or place may from time to time approve, appoint, or license Warehouses or places of security wherein goods may be deposited without payment of Duty on the first entry thereof; and every Warehouse which, at the date on which this Act shall come into operation, shall have been approved, appointed, or licensed as such, shall continue to be a Warehouse under this Act, until otherwise ordered by such Chief Customs Authority.

Existing Warehouses to continue in use until otherwise ordered.

Levy of and Exemption from Customs Duties.

Import Customs.

XVI. Duties of Customs shall be levied on goods imported by Sea into any Port in British India, not being a Free Port, from any Foreign Port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

Export Customs.

XVII. Duties of Customs shall be levied on goods exported by Sea from any Port in British India, not being a Free Port, to any Foreign Port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

No Duties on goods carried from one Indian Port to another not a Free Port.

XVIII. No Duties of Customs shall be levied on goods carried by Sea from any Port in British India, not being a Free Port, to any other

Port in British India, not being a Free Port. Provided that nothing in this Section shall apply to Opium or Salt, or to Spirits manufactured after the English method.

Proviso as to Opium, Salt, and Spirits.

XIX. It shall be lawful for the Local Government to authorize the Chief Customs Authority of any Presidency or place, to exempt by special order, from the payment of Duty, under stated circumstances of an exceptional nature, any goods on which Duties of Customs are directed to be levied by any law for the time being in force.

Local Government may in certain cases authorize exemption from payment of Duty.

XX. It shall be lawful for the Officer in charge of a Custom House to pass free of Duty at his discretion any baggage in actual use; and for this purpose to determine, subject to such general rules as may from time to time be made under Section IV. of this Act, whether any goods shall be treated as baggage in actual use, or as goods subject to Duty.

Baggage in actual use.

General Provisions.

XXI. The importation into or exportation from British India of the goods enumerated in the following Clauses is prohibited:—

Prohibitions and restrictions.

1. Any book printed in infringement of any law in force in British India on the subject of copyright, when the proprietor of such copyright, or his agent, shall have given to the Chief Customs Authority of the Presidency or place a notice in writing that such copyright subsists, and a statement of the date on which it will expire.

2. False or counterfeit coin; or coin which purports to be Queen's coin of India, but is not of the established standard in weight or fineness.

3. Any obscene book, pamphlet, paper, drawing, painting, representation, figure, or article.

XXII. The importation into British India of Arms or Ammunition, except under a license from the Governor General of India in Council, or from some Officer authorized in that behalf by the Governor General of India in Council, is prohibited.

Importation without license of Arms and Ammunition prohibited.

Nothing in this Section shall apply to fowling pieces, and sporting powder, *bonâ fide* imported by any person in reasonable quantities for his own private use.

Proviso.

XXIII. It shall be lawful for the Governor General of India in Council, from time to time by notice in the Official Gazette, to prohibit or restrict the importation or exportation of any particular class of goods.

Governor General may prohibit or restrict importation or exportation of goods.

XXIV. If any goods, the importation or exportation of which is prohibited or restricted, or shall hereafter be prohibited or restricted, be imported into or exported from British India contrary to such prohibition or restriction; or if any attempt be made so to import or export any such goods; or if any such goods be found in any package produced to any Officer of Customs as containing no such goods; or if any such goods or any goods subject to a Duty or restriction, in respect of importation or exportation, be found either before or after landing or shipment to have been concealed in any manner on board of any vessel within the limits of any Port in British India; or if any goods, the exportation of which is or shall be prohibited or restricted, be brought to any Wharf in order to be put on board of any vessel for exportation contrary to such prohibition or restriction,—such goods, together with any goods which shall be found packed with or used in concealing them shall be liable to confiscation; and any person concerned in any such offence shall be liable to a penalty not exceeding three times the value of the goods, or not exceeding one thousand Rupees,

Goods imported or exported contrary to prohibition liable to confiscation, and persons concerned to penalty.

XXV. It shall be lawful to import into, or to export from, British India any goods, the importation or exportation of which is not prohibited or restricted by any law or notice of the Governor General of India in Council, for the time being in force; and any dutiable goods, the importation and warehousing of which is not prohibited or restricted by any such law or notice, may under the rules for the warehousing of goods in force at the Port of importation, be warehoused without payment of Duty on the first entry thereof.

Importation, exportation, and warehousing.

Owner, &c., to declare real value of goods in bill of entry or clearance, and if necessary to produce invoice, &c.

XXVI. On the importation into, or exportation from, any Port in British India, of any goods not liable to Duty, or liable to fixed Duties according to weight or quantity only, or to Duties on fixed Tariff valuations, the owner, consignee, importer, exporter, or agent of such goods shall, in his bill of entry or shipping bill, truly declare their real value to the best of his knowledge and belief. In case of doubt, it shall be lawful for the Officer in charge of the Custom House to require any such person or any other person who shall be in possession of any invoice, broker's note, policy of insurance, or other document, whereby the value of any such goods can be ascertained, to produce the same, and to furnish any information relating to the value of such goods which it shall be in his power to furnish. And it shall thereupon be the duty of such person to produce any such document or to furnish any such information so required by such Officer.

Under-valued goods how to be dealt with.

XXVII. If, upon the examination of any goods entered for Duty and chargeable with Duty upon the value thereof, but for which a specific value has not been fixed by the Local Government, with the sanction of the Governor General of India in Council, it shall appear to an Officer of Customs that such goods are properly chargeable with a higher rate or amount of Duty than that to which they would be subject, according to the value thereof as stated in the bill of entry or shipping bill, it shall be lawful for such Officer to detain such goods. In every such case the detaining Officer shall forthwith give notice in writing, to the person entering the goods, of their detention, and of the value thereof as estimated by him, and the Officer in charge of the Custom House shall, within two clear working days after such detention, or within such reasonable period as may with the consent of the parties be arranged, determine either to deliver such goods on the entry of such person, or to retain the same for the use of Government. If the goods be retained for the use of Government, the Officer in the charge of the Custom House shall cause the full value at which such goods were entered to be paid to the person entering the same, in full satisfaction for such goods, in the same manner as if such goods had been transferred by ordinary sale,

and shall then cause the goods to be sold by public auction after due notice in the Official Gazette. If the proceeds arising from such sale shall exceed the sum paid to the person entering the goods, together with the Duty to which the goods are liable, and all charges incurred by Government in connection with them, a portion not exceeding one-half of the overplus shall at the discretion of the Chief Officer of Customs of the Port, be payable to the Officer who detected the under-valuation of the goods. Nothing in this Section shall prevent the Chief Officer of Customs of the Port, when he shall have reason to believe that any such under-valuation was solely the result of accident, from permitting the person entering the goods, on his application for that purpose, to amend such entry, as regards valuation on payment of such increased rate of Duties, or on such other terms as he may determine. When goods are retained under this Section on account of Government, the Duties payable thereon shall in no case be levied from the person entering such goods. [Construed and amended by Act XVII., 1867, s. 3.]

Goods brought to be passed through the Custom House liable to confiscation in case of discrepancy, mis-description, &c.

XXVIII. If it be found, when any goods are entered at or brought to be passed through a Custom House either for importation or exportation, that the packages in which they are contained differ widely from the description given in the entry or application for passing them; or that the contents thereof have been wrongfully described in such entry or application as regards the denominations, characters, or circumstances according to which such goods are chargeable with Duty, or are being imported or exported; or that the contents of such packages have been wilfully mis-stated in regard to sort, quality or quantity; or that the goods not stated in the entry or application have been fraudulently concealed in or mixed with the articles specified therein, or have been packed to deceive the Officers of Customs, such packages, together with the whole of the goods contained therein, shall be liable to confiscation.

Date of importation, how to be determined.

XXIX. If upon the first levying, repealing, enhancement, or reduction of any Duty, or upon any change of any fixed valuation for Duty, or upon the first permitting, prohibiting, or restricting of any importation, it shall become necessary to determine the exact date on which an

importation of goods had effect, such date shall be deemed to be that on which the goods were actually entered for home consumption at the Custom House.

Date of exportation how to be determined.

XXX. If, in like manner, it shall become necessary to determine the exact date on which an exportation of goods had effect, such date shall be deemed to be that on which the goods were actually entered outwards at the Custom House.

Re-imported articles of country produce to be deemed Foreign.

XXXI. If goods produced or manufactured in British India be imported into any Port in British India from any Foreign Port or place, such goods shall be treated as Foreign goods, and shall be liable to all the duties, conditions, and restrictions to which Foreign goods of the like kind and value are liable on the first importation thereof. Provided that if such importation shall take place within three years after the exportation of such goods, and it shall be proved to the satisfaction of the Officer in charge of the Custom House that the property in such goods has continued in the person by whom or on whose account they were exported, the goods may be entered as Indian goods, in such manner as the Chief Customs Authority of the Presidency or place shall, from time to time, direct. Goods, for which any drawback of Excise shall have been received on exportation, shall in all cases be treated as Foreign goods, unless the Chief Customs Authority of the Presidency or place shall in any case otherwise direct by special order.

Proviso.

Stations may be appointed for Customs Officers to board, and also land from Ship.

XXXII. The Chief Customs Authority of any Presidency or place may, from time to time, appoint, in any Port in British India, stations or places at which vessels arriving at, or departing from, such Port, shall bring to for the boarding or landing of Officers of Customs, and may direct at what particular place in any such Port, small vessels, not brought into Port by Pilots, shall be required to anchor or moor. The Chief Officer of Customs of any such Port may, at any time, station Officers of Customs on board of any vessel, while such vessel remains within the limits of the Port. Any person infringing any rule or order made under this Section by the Chief Customs Authority of any Presidency or place, or by

Penalty for infraction.

the Chief Officer of Customs of any Port, shall be liable to a penalty not exceeding five hundred Rupees.

IMPORTATION.

Places may be fixed by the Local Government beyond which inward bound vessels are not to proceed until a Manifest has been delivered.

XXXIII. It shall be lawful for the Local Government of any Presidency or place, by notice in the Official Gazette, to fix a place in any River or Port, beyond which place it shall not be lawful for any vessel, whether laden or in ballast, arriving from any Foreign Port or place, to pass, until the Master or Commander thereof shall have delivered to the Pilot, Officer of Customs, or other person duly authorised to receive the same, a Report or Manifest, containing a true specification of all goods imported in such vessel, with such particulars (as to the name, nation, tonnage, cargo, and Ports of lading of such vessel) and made out in such form as shall, from time to time, be directed by the Chief Customs Authority of the Presidency or place in which such River or Port is situated.

On failure, Master to be liable to penalty.

XXXIV. If in any River or Port wherein a place has been so fixed by the Local Government, the Master or Commander of any vessel arriving from a Foreign Port or place shall wilfully omit, before passing beyond such place, to deliver a Report or Manifest in the form and containing the particulars indicated in the last preceding Section, in so far as they are applicable to his ship, cargo, and voyage; or if any Report or Manifest so delivered shall not contain a true specification of all goods imported in such vessel, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Penalty for failure to report when vessel anchors below reporting Station, or to deliver a Manifest of the Cargo.

XXXV. If in any River or Port wherein a place has been fixed by the Local Government under Section XXXIII. of this Act, the Master or Commander of any vessel arriving from any Foreign Port or place shall remain outside or below the place so fixed, such Master or Commander shall, nevertheless, so soon as the vessel shall anchor, deliver to the Pilot, Officer of Customs, or other person authorized to receive the same, a Report or Manifest as provided in the said Section.

If any Master or Commander so remaining outside or below any such fixed place, shall wilfully omit, for the space of twenty-four hours after anchoring, to deliver his Report or Manifest, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Penalty for not delivering Report or Manifest within 24 hours after anchoring.

XXXVI. If, after any vessel arriving from any Foreign Port or place shall have entered any Port in British India at which a Custom House is established, and in which a place shall not have been fixed under Section XXXIII. of this Act, the Master or Commander of such vessel shall wilfully omit, for the space of twenty-four hours after anchoring, to deliver as required by that Section his Report or Manifest to the Pilot, Officer of Customs, or other person authorised to receive the same, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Penalty for Pilot, &c., not receiving Report or Manifest.

XXXVII. If any Pilot, Officer of Customs, or other person authorised to receive a Report or Manifest from any Master or Commander of a vessel, shall refuse so to do, he shall, in every such case, be liable to a penalty not exceeding five hundred Rupees.

Penalty for vessel removing from place of mooring, or unlading without due authority.

XXXVIII. If any vessel arriving from any Foreign Port or place at any Port in British India, shall after having come to its proper place of mooring or unlading, remove from such place, except with the authority of the Master Attendant or Harbour Master, obtained in accordance with the provisions of Act XXII. of 1855 (*for the regulation of Ports and Port dues*), directly to some other place of mooring or unlading, the Master or Commander of such vessel shall, in every such case, be liable to a penalty not exceeding one thousand Rupees, and the vessel shall not be allowed to enter until the penalty is paid.

Stations may be appointed for Officers of Customs to board vessels arriving from Foreign Ports.

XXXIX. It shall be lawful for the Chief Customs Authority of any Presidency or place to appoint stations at which any vessel, arriving at any Port in such Presidency or place from any Foreign Port or place, may be required to bring to

for the boarding of such vessel by an Officer of Customs deputed by the Officer in charge of the Custom House at such Port.

Penalty for not bringing to at boarding Station.

XL. If the Master or Commander of any vessel arriving at any Port in British India from any Foreign Port or place shall, when so required under the last preceding Section, fail to bring to at any such station as shall have been appointed by the Chief Customs Authority of the Presidency or place for the boarding of vessels by an Officer of Customs, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Officer in charge of Custom House may depute Officers of Customs to board ships.

XLI. It shall be competent to the Officer in charge of the Custom House at any Port in British India, at any time, to depute at his discretion one or more Officers of Customs to board any vessel arriving at such Port. Every Officer of Customs so sent, shall remain on board of such vessel by day and by night until it be otherwise ordered by the Officer in charge of the Custom House. Provided that it shall be competent to the Officer in charge of the Custom House to direct, whenever he may see fit so to do, and on such conditions as he may see fit to impose, that the discharge of cargo may take place without the presence of an Officer of Customs.

Proviso.

Penalty for refusing to receive Officer of Customs on board.

XLII. Every Master or Commander of a vessel who shall refuse to receive on board an Officer of Customs deputed as above provided, shall be liable to a penalty not exceeding five hundred Rupees for each day during which such Officer shall not be received on board; and the vessel shall not be allowed to enter until the penalty is paid.

Servant to be received with Officer.

Accommodation of Officer and Servant.

XLIII. Every Master or Commander of a vessel, who is bound to receive on board an Officer of Customs, shall also be bound to receive on board one servant of such Officer, and to provide such Officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water, and with the means of cooking on board. If any Master or

Penalty.

Commander shall wilfully disobey the directions contained in this Section, he shall in every such case be liable to penalty not exceeding five hundred Rupees.

XLIV. Every Officer of Customs, deputed as above provided on board of any vessel, shall have free access to every part thereof, and shall have power to fasten down any hatchway or entrance to the hold, and to mark any goods before landing, and to lock up, seal, mark, or otherwise secure any goods on board of such vessel. If any box, place, or closed receptacle in any such vessel be locked, and the keys be withheld, such Officer shall report the same to the Officer in charge of the Custom House, who may thereupon issue to the Officer on board, or to any other Officer under his authority, a written order to search; and, on production of such order, it shall be competent to the Officer bearing the same to require that any place, box, or closed receptacle in such vessel be opened in his presence; and, if it be not opened upon his requisition, to break the same open; and any goods that shall be found concealed therein, and that shall not be duly accounted for to the satisfaction of the Officer in charge of the Custom House, shall be liable to confiscation.

Officer of Customs to have free access to every part of the ship, and may seal and secure goods.

Officer in charge of Custom House may authorize search and opening of locks.

Goods found concealed liable to confiscation.

XLV. If any Master or Commander of a vessel shall refuse to allow such vessel or any box, place, or closed receptacle in such vessel to be searched when so required by an Officer of Customs bearing a written order to search; or if an officer of Customs shall place any lock, mark, or seal upon any goods, and such lock, mark, or seal shall be wilfully opened, altered, or broken, before due delivery of such goods; or if any such goods shall be secretly conveyed away; or if any hatchway or entrance to the hold, after having been fastened down by an Officer of Customs, shall be opened without his permission, in every such case the Master or Commander of such vessel shall be liable, upon conviction before a Magistrate, to a penalty not exceeding one thousand Rupees.

Penalty for Masters resisting search, &c.

XLVI. No vessel arriving in any Port in British India from any Foreign Port or place, shall be allowed to break bulk until a Report or Manifest shall have been delivered as hereinbefore provided; nor until a copy of such Report or Manifest, together with an application for entry inwards, shall have been presented to the Officer in charge of the Custom House, and order shall have been given thereon by such Officer for the discharge of the cargo. The Officer in charge of the Custom House may refuse to give such order, until any Port-clearance, cockett, or other paper, which he shall know or have reason to believe, had been granted at the place from which the vessel is stated to have come, shall likewise have been delivered to him. Nothing in this Section shall prevent an Officer in charge of a Custom House from granting on receipt of the original Report or Manifest, and prior to the entry of the vessel at the Custom House, a special pass, under such rules as shall from time to time be prescribed by the Chief Customs Anthority of the Presidency or place, for the unshipping of Bullion or Treasure.

Bulk not to be broken until Manifest, &c., delivered, and ship entered at Custom House.

XLVII. The Master or Commander of every vessel arriving from any Foreign Port or place shall, at the time of applying for entry inwards at any Port in British India, deliver to the Officer in charge of the Custom House, if required so to do, the bill of lading or a copy thereof for every part of the cargo laden on board, and shall answer all such questions relating to the vessel, cargo, crew, and voyage as shall be put to him by such Officer. If any such bill of lading or copy thereof shall be false; or if any such bill of lading or copy shall have been altered with fraudulent intent; or if the goods expressed in any such bill of lading or in any bill of lading of which a copy shall be so produced shall not have been *bonâ fide* shipped on board of such vessel; or if any such bill of lading so produced, or any bill of lading of which a copy shall be so produced by any such Master or Commander, shall not have been made previously to the departure of the vessel from the place where the goods expressed in such bill of lading were shipped; or if any part of

Master if required, to deliver Bill of Lading, &c., to Officer in charge of Custom House.

Penalty for false entry, fraudulent alteration, &c.

the cargo shall have been staved, destroyed, or thrown overboard, or if any package be opened, and such part of the cargo or such package be not accounted for to the satisfaction of the Officer in charge of the Custom House; in every such case the Master or Commander shall be liable to a penalty not exceeding one thousand Rupees.

Goods not to leave ship unless entered in Manifest. Goods not agreeing in description and quantity with entry in Manifest liable to confiscation, or extra Duty.

XLVIII. No goods shall be allowed to leave any vessel, unless they be duly entered in the Report or Manifest of such vessel. If any goods be found on board in excess of those entered in the Report or Manifest, or not corresponding with the specification therein contained, the fact shall be reported by the Officer of Customs on board, and all such goods shall be liable to confiscation, or to be charged with such increased rates of Duty as the Chief Customs Authority of the Presidency or place shall direct.

Penalty for not being able to account for missing or deficient package, &c.

XLIX. If any goods entered in the Report or Manifest shall not be found on board of the vessel, or if the quantity found be short, and if such deficiency be not accounted for to the satisfaction of the Officer in charge of the Custom House, the Master or Commander of such vessel shall be liable, in addition to full Duty, to a penalty not exceeding twice the amount of Duty chargeable on the missing or deficient goods, if they be capable of being assessed therewith; or if they be not, to a penalty not exceeding five hundred Rupees for every missing or deficient package of unknown value.

Amendment of obvious errors, &c.

L. Nothing contained in the two Sections last preceding shall be construed to prevent any Officer in charge of a Custom House from permitting the Master or Commander of any vessel to amend any obvious error, or to supply any omission resulting from accident or inadvertence, by furnishing an amended or supplementary Report or Manifest. But the receiving of such amended or supplementary document shall always be discretionary with the Officer in charge of the Custom House; who, if he decide to receive any such amended or supplementary Report or Manifest, may levy thereon such fee as the Chief Customs Authority of the Presidency or place shall from time to time direct.

Period to be allowed for landing import Cargo.

LI. A period of fifteen working days after the entry of a vessel not exceeding six hundred tons, or such other period as the Officer in charge of the Custom House shall direct, shall be allowed (without charge for the Officer of Customs) for the landing of import cargo from such vessel. One additional day shall in like manner be allowed for every fifty tons in excess of six hundred. If the period occupied in the landing of import cargo be in excess of that so allowed, the vessel shall be charged with the expense of the Officer of Customs at a rate not exceeding five Rupees per diem (Sundays and holidays excepted) for such excess period.

Consequence of exceeding same.

Procedure in respect of goods not landed within time allowed.

LII. If the importer, owner, or consignee of any goods (except such as shall have been declared by the master or Commander as not to be landed), or the agent of such importer, owner, or consignee, shall not land such goods within fifteen working days after the entry of the vessel importing the same, or within such further period as the bill of lading of such vessel shall specify, the Master or Commander of the vessel, or the Officer of Customs, on the application of such Master or Commander, may then carry such goods to the Custom House; and the Officer in charge of the Custom House shall thereupon be bound to take charge of, and to grant receipts for such goods; and, if notice in writing shall have been given that the goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, such Officer shall be bound to hold such goods until the freight, primage, duties, and other charges, to which such goods are liable, shall be paid.

And in case of goods being landed in time, with exception of only a small quantity.

LIII. If the cargo of any vessel, with the exception of a small quantity only of goods, shall have been landed within such period of fifteen days or such further period as the bill of lading shall specify, the Officers of Customs may, on the application of the Master or Commander of such vessel, direct that such remaining goods shall forthwith be carried in like manner to the Custom House.

Effect of not discharging Cargo in any earlier period specified in the bill of lading.

LIV. If any earlier period than fifteen working days after the entry of any vessel is specified in the bill of lading of such vessel for the discharge of her cargo or any part thereof, and if the importer, owner, or consignee of such cargo, or the agent of such importer, owner, or consignee, shall not land the same within such specified period, the Master or Commander of such vessel, or the Officer of Customs, on the application of such Master or Commander, may then carry such goods to the Custom House; and the Officer in charge of the Custom House shall thereupon be bound to take charge of and to grant receipts for such goods; and if notice in writing shall have been given that the goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, such Officer shall be bound to hold such goods until the freight, primage, duties, and other charges to which such goods are liable, shall be paid.

Goods may be landed at any time after arrival with consent.

LV. At any time after the arrival of any vessel, the Officer in charge of the Custom House may, with the consent of the Master or Commander of such vessel, cause any small package or parcel of goods to be carried to the Custom House, there to remain for entry in charge of the Officers of Customs during the remainder of the working days allowed under the provisions of this or any other Act relating to Customs, for the landing of such package or parcel. If any package or parcel so carried to the Custom House shall remain unclaimed on the expiration of the number of working days so allowed for its landing, or at the time of the clearance outwards of the vessel from which it was landed, the Master or Commander may give such notice as is provided in Section LII. of this Act, and the Officer in charge of the Custom House shall thereupon be bound to hold such package or parcel as provided in the said Section.

Procedure in case of non-payment of Duties within four months after entry of vessel.

LVI. If the Duties chargeable upon any goods carried to the Custom House under the provisions of any of the four Sections last preceding, together with the freight, primage, charges of landing and removal, and rent and other charges, to which such goods shall not be liable, shall not be paid within four

months from the date of entry of the vessel, or if such goods shall not be duly warehoused within such period, such goods may, after due notice in the Official Gazette, be sold by public auction, and the proceeds thereof shall then be applied; first, to the payment of freight, primage, and general average; next, to the payment of the Duties; and then to the payment of other charges. The overplus, if any, shall be paid to the importer, owner, or consignee of the goods, or to his agent on his application for the same; provided that such application be made within one year from the sale of the goods, or that good reason be shown why such application was not so made. If any such goods be of a perishable nature, the Officer in charge of the Custom House may at any time direct the sale thereof, and shall apply the proceeds in like manner. Nothing in this Section shall be held to authorize the passing for home consumption of any dutiable goods without payment of Duties of Customs thereon.

Goods not cleared within two months from the date of landing to be sold.

LVII. If any goods be not cleared for home consumption or for warehouse within two months from the date of landing of such goods, or within such further period as the Officer in charge of the Custom House shall direct, such goods may, after due notice in the Official Gazette, be sold by public auction, and the proceeds thereof shall then be applied to the payment of Duties and other charges. The overplus, if any, shall be paid to the importer, owner, or consignee of the goods, or to his agent on his application for the same; provided that such application be made within one year from the date of the sale of the goods, or that good reason be shown why such application was not so made.

Disposal of proceeds.

Goods not to be landed on Sundays, Holidays, &c., without permission; nor except within fixed hours, &c.

LVIII. Except with the written permission of the Officer in charge of the Custom House no goods, with the exception of passengers' baggage, shall on any Sunday, or on any Holiday or day on which the discharge of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be discharged from any vessel arriving at any Port in British India from any Foreign Port or place; nor, except with such written permission, shall any goods be so discharged

on any day, except between such hours as the Chief Customs Authority shall, from time to time, appoint by notice in the Official Gazette; nor without the presence or authority of an Officer of Customs. Any Master or Commander of a vessel who shall cause or suffer any goods to be removed contrary to any of the provisions of this Section, shall in every such case be liable to a penalty not exceeding one thousand Rupees; and all goods so unauthorizedly removed shall be liable to confiscation.

Penalty.

LIX. If any goods shall be removed from on board of any vessel for the purpose of being landed and passed for importation, such goods shall be forthwith removed to and landed at the Wharf or other place appointed for the landing of such goods. If such goods be not so removed, or landed, or if the boat containing such goods be found out of the proper track between the vessel and such Wharf and other proper place of landing, and such deviation be not accounted for to the satisfaction of the Officer in charge of the Custom House, such goods, together with any vessel or boat employed in removing them, shall be liable to confiscation.

Goods removed from ship to be forthwith landed. Otherwise liable to confiscation.

LX. No goods which shall have been discharged from any vessel under the authority of an Officer of Customs shall be landed, except at the Wharf or other place appointed for the landing of such goods. No goods which shall have been discharged into any boat for the purpose of being landed shall, previously to their being landed, be transhipped into any other boat without the permission of an Officer of Customs. Any goods landed or transhipped contrary to the provisions of this Section shall be liable to confiscation.

Goods landed at any other than appointed Wharf or place liable to confiscation.

LXI. When any goods shall be sent from on board of any vessel for the purpose of being landed and passed for importation, there shall be sent with each boat-load, or other separate despatch, a boat-note specifying the number of packages so sent, and the marks and numbers or other description thereof. Each boat-note shall be signed by an Officer of the vessel, and likewise by the Officer of Customs on board, if any such Officer

Goods landed without a boat-note, liable to confiscation, and person in fault, to penalty.

be on board. If any goods sent to be landed be found without a boat-note in any boat proceeding to land, such goods shall be liable to confiscation; or the person by whose authority the goods are being landed, or the person in charge of the boat, if it appear that the fault was with him, shall be liable to a penalty not exceeding twice the amount of Duty leviable on the said goods.

Entry for home consumption.

LXII. The importer, owner, or consignee of any goods liable to Duties of Customs, and intended to be delivered for home consumption on the landing thereof from the importing ship, or the agent of such importer, owner, or consignee, shall make entry of such goods by delivering to the Officer in charge of the Custom House a bill of entry thereof in such form and containing such particulars as may, from time to time, be directed by the Chief Customs Authority of the Presidency or place. The particulars of such entry shall correspond with the particulars given of the same goods and packages in the Report or Manifest of the ship. Whenever the value of any goods is required to be stated in the entry, the importer, owner, or consignee, or his agent, shall subscribe a declaration of the truth of such value at the foot of such entry. Provided that, if the importer, owner, or consignee, or his agent, shall make a declaration before the Officer in charge of the Custom House to the effect that he is unable, from want of full information, to state the value or contents of any case, package, or parcel of goods, then the Officer in charge shall permit him, previous to the entry thereof, to open such case, package, or parcel, and examine the contents in presence of an Officer of Customs. Except as provided in Section XXVII., of this Act for cases of obvious error, no re-valuation of goods assessed for Duty on the declared value thereof shall be allowed after such goods shall have been removed from the Custom House.

Penalty for goods being delivered without entry.

LXIII. If without entry duly made, any goods shall be taken or passed out of any Custom House or Wharf, the person so taking or passing such goods shall in every such case be liable to a penalty not exceeding five hundred Rupees. Provided that no entry shall be required in respect of passengers' baggage, which may be examined, landed, and

Proviso as to passengers' baggage.

delivered under such rules as shall from time to time be made under Section IV. of this Act by the Chief Customs Authority of the Presidency or place. Any prohibited or dutiable goods found, either before or after landing, concealed in any such baggage, together with the other contents of the package in which they are found, shall be liable to confiscation.

Penalty for goods being removed after landing and before due entry.

LXIV. If, after any goods have been landed, and before they have been passed through the Custom House, the importer, owner, or consignee, or his agent, or any one acting on his behalf, removes or attempts to remove them, with the intention of defrauding the Revenue, such goods shall be liable to confiscation, or, if the goods cannot be recovered, the owner shall be liable, in addition to full Duty, to a penalty not exceeding twice the amount of such Duty if the goods be capable of being assessed therewith, or, if they be not, to a penalty not exceeding one thousand Rupees for every missing or deficient package of unknown value.

Claims to abatement of Duty on account of damage how to be treated.

LXV. No claim for any abatement or refund of Duty on account of damage alleged to have been sustained before entry, shall be allowed in respect of any goods imported into any Port in British India, unless such claim be made in writing, and the damaged condition of such goods be ascertained and certified on the first examination thereof, by a Custom House Appraiser, or by such other person as the Officer in charge of the Custom House shall appoint for the purpose.

Disposal of Damaged goods and levy of Duty thereon.

LXVI. Goods, the damaged condition of which is ascertained and certified to the satisfaction of the Officer in charge of the Custom House, may, after notice in the Official Gazette, be sold by public auction, at such time (within thirty days from the date of entry), and at such place, as the Officer in charge of the Custom House shall appoint. The Duty on such goods shall be adjusted on the gross amount realized by their *bonâ fide* sale, as proved by the original account sales, without any abatement or deduction whatsoever except of so much as represents the Duties payable on the importation thereof. On goods, the value of which shall have been fixed under the provisions of Section CLXXIX. of

this Act, no abatement of Duties shall be allowed unless they be deteriorated to the extent of one-fifth of their value. No abatement of Duty on account of damage shall be allowed on wines, spirits, or beer, or on any other articles on which Duties are levied on quantity and not on value.

Goods derelict and wrecked to be treated as Foreign Goods.

LXVII. All goods derelict, jetsam, flotsam, and wreck brought or coming into any Port in British India, shall, at all times, be subject to the same Duties to which goods of the like kind are subject on importation at such Port, unless it shall be shown to the satisfaction of the Officer in charge of the Custom House, that such goods are the produce or manufacture of any country or place, by virtue whereof they are entitled to be admitted Duty free; or that such goods, if liable to Duty, are entitled to an abatement in respect of damage.

Officer in charge of Custom House may require goods to be weighed or measured on board before landing.

LXVIII. The Officer in charge of the Custom House, whenever he shall see fit, may require that goods brought by Sea, and stowed in bulk, shall be weighed or measured on board ship before landing, and may levy Duty according to the result of such weighing or measurement.

No Duty on portion of import cargo intended for another Port, ship's stores, &c.

LXIX. Any portion of an import cargo intended for another Port, or any ship's stores intended for the home voyage, may be declared by the Master or Commander of any vessel as not to be landed, and may thereupon, with the special sanction of the Officer in charge of the Custom House be retained on board, and such cargo or ship's stores so retained shall not be subject to the payment of Duty. Provided that all such cargo and ship's stores shall be entered in the Export Manifest of the vessel as cargo of ship's stores not landed, and on which no Duty has been paid. Nothing in this Section shall prevent the Officer in charge of the Custom House from sealing up, or otherwise securing, if he see reason for so doing, any portion of such cargo or ship's stores during the vessel's stay in Port.

WAREHOUSING.

Deposit of goods in warehouse without payment of Duty.

LXX. It shall be lawful for any person who has imported any goods into any warehousing Port in British India to deposit such goods, without

payment of Duty on the first entry thereof in any public or private warehouse, approved, appointed, or licensed under this Act.

Public warehouses.

LXXI. Every building in any warehousing Port or place, which the Chief Customs Authority of the Presidency or place shall from time to time approve or appoint for the purpose, shall be a public warehouse for the reception of goods under this Act. Every public warehouse shall be under the lock and key of a warehouse-keeper appointed by the Chief Officer of Customs of the Port or place in which it is situated. The warehouse-keeper shall, to the extent provided in Sections LXXVI. and XCIII. of this Act, and not otherwise, be responsible for the charge of all goods deposited in his warehouse, and for their due reception therein and delivery therefrom.

Responsibility of keeper.

Chief Customs Authority to decide what goods may be deposited in public warehouse, and on what terms.

LXXII. The Chief Customs Authority of the Presidency or place may from time to time determine in what divisions of any public warehouse, and in what manner, and on what terms, including rates of rent, any goods and what sort of goods, may be deposited without payment of Duty on the first entry thereof. A table of the rates of rent so fixed for every public warehouse shall be placed in a conspicuous part thereof.

Chief Officer of Customs may license private warehouses at any warehousing Port or place.

LXXIII. At any warehousing Port or place, the Chief Officer of Customs of the Port or place shall have power to license private warehouses for the reception of goods under this Act without payment of Duty on the first entry thereof. Every license for a private warehouse so granted shall, unless it be otherwise provided in the license, be liable to be revoked after one month's notice by the Chief Officer of Customs of the Port or place in which such warehouse is situated.

Form of application for license for private warehouses.

LXXIV. Every application for a license for a private warehouse shall be in writing, and shall be drawn up in the form marked A annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority

of the Presidency or place, and shall be signed by the applicant.

Form of application for the admission of goods into warehouse.

LXXV. Every application for the admission of goods into any public or private warehouse shall be in writing, and shall be drawn up in the form marked B. annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place, and shall be signed by the applicant.

No Goods to be warehoused without payment of Duty, unless assessed for Customs Duty.

LXXVI. No goods shall be warehoused without payment of Duty on the first entry thereof unless such goods shall have been assessed for Customs Duty in like manner as goods intended to be passed for home consumption.

Public warehouse-keeper or license-holder of private warehouse to be answerable for weight or gauge.

The warehouse-keeper in respect of goods lodged in a public warehouse, and the person who obtained the license in respect of goods lodged in a private warehouse, shall be answerable for the weight or gauge reported by the Custom House Officer who shall have assessed such goods, allowance being made, if necessary, for ullage and wastage as provided in Section XCV. of this Act. Nothing in this Section shall interfere with the re-assessment for Duty of warehoused goods on their clearance for home consumption, should an alteration of any Duty or of any fixed valuation for Duty render such re-assessment requisite with reference to the provisions of Section XXIX. of this Act.

Saving of the re-assessment of warehoused goods or clearance for home consumption.

Bond under what circumstances to be taken. Form and conditions of bond.

LXXVII. When an application shall have been made for the warehousing of any goods under this Act, and when such goods shall have been assessed for Duty as directed in the last preceding Section, the importer, owner, or consignee, or his agent, shall be required to execute a bond for the amount of such Duty in the form marked C annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the Presideney or place. Every such bond shall relate to the Duties chargeable on the cargo or portion of the cargo of one vessel only.

LXXVIII. Every bond shall be for twice the amount of Duty assessed on the goods to which it relates, and shall stipulate for the payment, on demand, of any sum due on account of any such goods, together with interest on such sum from the date of demand at such rate, not exceeding six per cent. per annum, as shall be fixed by the Chief Customs Authority of the Presidency or place. Every person who shall execute any such bond shall be bound thereby for the payment of all Duties, interest, and charges that shall be claimable on account of the goods, and of penalties incurred for violation of the Customs law in respect to the same.

Terms of bond to be executed.

LXXIX. When any such bond shall have been executed, the goods to which such bond relates shall be allowed to remain in warehouse for a period not exceeding three years, without being liable to the demand of Import Duty.

Period for which goods may remain warehoused under bond.

LXXX. If any goods entered to be warehoused shall be carried into the warehouse, unless with the authority or under the care of the proper Officers of Customs, and in such manner, by such persons, within such time, and by such roads or ways, as such Officers shall direct, such goods shall be liable to confiscation, and the person so carrying them shall be liable to a penalty not exceeding one thousand Rupees.

Penalty for improper carrying into warehouse.

LXXXI. When the provisions of Sections LXXV., LXXVI., LXXVII., and LXXVIII. shall have been complied with in respect to any goods, such goods shall be forwarded in charge of an Officer of Customs to the warehouse in which they are to be deposited. There shall be sent with the goods a pass in which the name of the importing vessel, and of the bonder, the marks, numbers, and contents of each package, and the warehouse or place in the warehouse wherein they are to be deposited, shall be specified. On receipt of the goods into the warehouse, the correctness of the pass, if it be correct, shall be duly certified by the proper Officer, and the pass shall be returned to the Officer in charge of the Custom House, after which the warehousing of such goods shall be deemed to have been completed. If any

Procedure in respect of goods to be warehoused.

goods entered to be warehoused shall be withheld, or removed from any proper place of examination, before they shall have been examined and certified by the proper Officer, it shall be deemed that such goods have not been duly warehoused, and they shall be liable to confiscation.

Proviso as to confiscation.

LXXXII. When goods are passed by tale or by package, the importer, owner, or consignee of such goods, or his agent, shall, for every omission or mis-description thereof, tending to injure the Revenue, be liable to a penalty not exceeding ten times the amount of Duty which might have been lost to Government by such omission or mis-description, unless it shall be proved to the satisfaction of the Officer in charge of the Custom House that the variance was accidental. If the quantity or value of any goods shall have been over-stated on importation, the error may be rectified at any time before the warehousing of the goods shall be completed.

Penalty for mis-description of goods.

LXXXIII. No package, butt, cask, or hogshead shall be admitted into any public or private warehouse, unless it bear the marks and numbers specified in the pass for its admission. All goods shall be warehoused in the packages, butts, casks, or hogsheads in which they shall have been imported, except as provided in Section XCII. of this Act. If any such goods be not so warehoused, or if any alteration be made in goods so warehoused, or in the packing thereof, except as provided in the said Section, or if any such goods be removed from the warehouse in which they were originally deposited, except in presence, or with the sanction of the proper Officer, or under the proper authority for their delivery, such goods shall be liable to confiscation.

Package, &c., to be marked and numbered before admission into warehouse.

Proviso as to confiscation.

LXXXIV. If the keeper of any public warehouse, or the person who has obtained a license for any private warehouse, shall neglect to stow the goods warehoused therein so that easy access may be had to every package and parcel thereof, he shall for every such neglect be liable to a penalty not exceeding fifty Rupees.

Penalty for neglecting to stow goods properly in warehouse.

LXXXV. If the keeper of any public warehouse, or the person who has obtained a license for any private warehouse, shall fail, on the requisition of any Officer of Customs, to produce any goods which shall have been deposited in such warehouse, and which shall have been duly cleared and delivered therefrom, he shall, for every such neglect, be liable, not only to pay the Duties due on such goods, but also to a penalty not exceeding fifty Rupees in respect of every package or parcel so missing or deficient.

Or for neglecting to produce goods when required.

LXXXVI. If any goods entered to be warehoused shall not be duly warehoused in pursuance of such entry, or after being duly warehoused shall be fraudulently concealed in or removed from the warehouse, or abstracted from any package, or transferred from one package to another or otherwise, for the purpose of illegal removal or concealment, such goods shall be liable to confiscation.

Goods entered to be warehoused, if not duly warehoused, or if concealed or removed, liable to be confiscated.

LXXXVII. The Officer in charge of the Custom House shall have authority at any time to issue his written order to cause any goods or packages lodged in any public or private warehouse to be opened, weighed, or otherwise examined as he shall direct; and after any goods shall have been so opened or examined, to cause the same to be sealed or marked in such manner as to him may seem fit. When any goods shall have been so sealed and marked, after examination, they shall not be again opened without permission from the Officer in charge of the Custom House; and when any such goods shall be opened with the permission of such Officer, the packages shall, if it shall seem fit to such Officer, again be sealed or marked as before.

Officer in charge of Custom House may cause packages lodged in warehouse to be opened and examined.

LXXXVIII. The Officer in charge of the Custom House, or any Officer deputed by him for the purpose, shall have access to any private warehouse licensed under this Act; and if the person who has obtained a licence for any such private warehouse shall not open the same when required so to do by any Officer entitled under this Act or under any other law to have access thereto, or shall, upon demand made by any such Officer at any time within

Penalty for holder of license of private warehouse, refusing access to Customs Officer.

the hours of business at the Port, refuse access to any such Officer, such person shall be liable to a penalty not exceeding one thousand Rupees, and shall further be liable to have his licence forthwith cancelled and withdrawn.

When bond shall become due, for Duty on goods in private warehouse deprived of license.

LXXXIX. Every bond executed for Duty chargeable on goods deposited in any private warehouse shall become due and may be put in suit for the levy of such Duties and other demands of Customs after seven days shall have passed from the date on which the Officer in charge of the Custom House shall have given notice that the licênse for such warehouse is withdrawn.

Owners to have access to warehoused goods attended by an Officer of Customs during business hours.

XC. Any importer, owner, or consignee of goods lodged in a public or private warehouse under this Act, or the agent of any such importer, owner, or consignee shall, at any time within the hours of business, have access to his goods in presence of an Officer of Customs, and an Officer of Customs shall be deputed to accompany any such person upon application for the purpose being made in writing to the Officer in charge of the Custom House. When an Officer of Customs is deputed as above, the person making the application shall, if required so to do, pay into the hands of the Officer in charge of the Custom House a sum sufficient to meet the expense of employing a special Officer for this purpose, whenever the Officer in charge of the Custom House shall find it expedient to employ such special Officer.

Penalty for importer or owner of warehoused goods clandestinely gaining access.

XCI. If the importer, owner, or consignee of any warehoused goods, or the agent of any person in the employ of such importer, owner, or consignee, shall clandestinely open any warehouse, or, except in presence of the proper Officer of Customs, gain access to his goods, such importer, owner, consignee, or agent shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Goods in warehouse may be sorted, repacked, &c., by owner, &c.

XCII. With the sanction of the Officer in charge of the Custom House, and after such notice given, and under such rules and conditions as the Chief Customs Authority of the Presidency

or place shall from time to time prescribe, it shall be lawful for any importer, owner or consignee of goods, or his agent, either before or after warehousing, to sort, separate, pack, and re-pack any goods, and to make such alterations therein as may be necessary for the preservation, sale, shipment, or disposal thereof (such goods to be re-packed in the packages in which they were imported, or in such other packages as the Officer in charge of the Custom House shall permit); and also to fill up any casks of Wine, Spirits or Beer from any casks of the same secured in the same warehouse; and also to mix any Wines of the same sort, erasing from the cask all import brands, unless the whole of the Wine so mixed be of the same brand; and also to take such samples of goods as may be allowed by the Officer in charge of the Custom House, with or without entry, and with or without payment of Duty, except as the same may eventually become payable on a deficiency of the original quantity; and after such goods have been so separated and re-packed in proper or approved packages, the Officer in charge of the Custom House may, at the request of the importer, owner, or consignee of such goods, or his agent, cause or permit any refuse, damaged, or surplus goods remaining after such separation or re-packing (or, at the like request, any goods which may not be worth the Duty) to be destroyed, and may remit the Duty payable thereon.

Compensation for loss or injury not admissible, except in case of proved wilful neglect, &c.

XCIII. No importer, owner, or consignee of goods shall be entitled to claim from the Officer in charge of the Custom House, or from any keeper of a public warehouse, compensation for any loss or injury that may occur to such goods while they are being passed into or out of such warehouse, or while they remain therein, unless it shall be proved that such loss or injury was occasioned by the wilful act or neglect of the warehouse-keeper or of an Officer of Customs.

Chief Customs Authority may remit Duties on warehoused goods lost or destroyed, and if goods are damaged, Duty to be levied on actual value.

XCIV. If any goods warehoused or entered to be warehoused, or entered to be delivered from a warehouse, shall be lost or destroyed by unavoidable accident or delay either on board of any vessel, or in landing, or during receipt into the warehouse, or in the warehouse, the Chief

Customs Authority of the Presidency or place may remit the Duties due thereon or return them if paid. Provided, that if any goods be so destroyed in a private warehouse, notice thereof be given to the Officer in charge of the Custom House within forty-eight hours after the discovery of such destruction. If goods lodged in a warehouse shall receive damage through unavoidable accident, they shall be re-assessed for Duty according to their actual value, and a new bond for the same shall be executed for the unexpired term of warehousing.

Import Duty to be on the quantity or value registered at time of importation.

XCV. The Import Duty on all goods shall be settled on the quantity or value thereof, as the case may be, registered at the time of importation, without any deduction whatever. Provided that if it shall appear, at the time of clearing any wines, spirits, beer, or Salt from any warehouse, that a deficiency exists, an allowance (on account of ullage and wastage) shall be made in adjusting the Duties thereon, to an extent not exceeding the rates specified below, or in such Table as may from time to time be prescribed in this behalf by the Local Government and notified in the Official Gazette:

Proviso as to wines, spirits, beer or salt.

Rates of ullage or wastage in respect of wines, spirits, and beer in cask.

For any time not exceeding	... ... 6 months	... ... 2½	per Cent.
Exceeding 6 months and not exceeding	12 months	 5	,,
Exceeding 12 months and not exceeding	18 months	... ... 7½	,,
Exceeding 18 months and not exceeding	2 years	 10	,,
Exceeding 2 years and not exceeding	3 years	... ... 12½	,,

When Salt is warehoused in a Government Golah or Store House under charge of a Government Officer, Duty of Customs shall be chargeable only on the amount actually cleared.

The rate of wastage to be allowed in adjusting the Duties on Salt warehoused in a private Golah or Store House, shall be prescribed from time to time by the Local Government and notified in the Official Gazette.

Penalty for deficiencies in a private warehouse if beyond ullage and wastage allowed.

XCVI. If any goods lodged in a private warehouse shall be found to be deficient at the time of delivery therefrom, the person who obtained the license for such warehouse shall, unless the deficiency be accounted for to the satisfaction of the Officer in charge of the Custom House, be liable to a penalty equal to five times the Duty chargeable on the goods so deficient. Provided that

nothing in this Section shall apply to any wines, spirits, beer, or salt, the deficiency in which is proved to be due solely to ullage or wastage; and that it shall be competent to the Chief Customs Authority of any Presidency or place to direct, in respect to any such article, and for the purposes of this Section, that allowance be made in any special case for a rate of ullage or wastage exceeding that contemplated in the last preceding Section.

Penalty for excess, in private warehouse, over registered quantity.

XCVII. If any goods lodged in a private warehouse shall be found to exceed the registered quantity, such excess, unless accounted for to the satisfaction of the Officer in charge of the Custom House, shall be charged with five times the ordinary Duty thereon. When any penalty shall be incurred under this or the last preceding Section, the goods in respect of which such penalty is incurred shall not be removed until the penalty is paid.

Goods not to be removed from warehouse, except after application to the Officer in charge of the Custom House.

XCVIII. No goods shall be removed from any warehouse, except after application to the Officer in charge of the Custom House, for permission to pass the goods for exportation by Sea to some Foreign Port or place; or for home consumption, in like manner as other goods are passed through the Custom House; or for removal to another warehouse, as provided in Sections CV., CVI., CVII., and CVIII., of this Act.

Form of application for removal of goods.

Twenty-four hours' notice to be given.

XCIX. Application to remove goods from any warehouse shall be made in the form marked D annexed to this Act, or in such other form as the Chief Customs Authority of the Presidency or place may from time to time prescribe. Such application shall ordinarily be made to the Officer in charge of the Custom House twenty-four hours' before it is intended so to remove such goods.

Penalty if goods be taken out of warehouse without entry.

C. If any goods shall be taken out of any warehouse otherwise than as is provided in this Act, the bonder shall forthwith pay the Duties due upon such goods; and every person who shall so take out any goods without payment of Duty, or who shall aid, assist, or be concerned therein, shall, in every such case, be liable to a penalty not exceeding one thousand Rupees. If

the person so offending be an Officer of Customs not acting in execution of his duty, and be prosecuted to conviction by the importer, owner, or consignee of such goods, no Duty shall be payable in respect of such goods, and any damage so occasioned by such Officer shall, with the sanction of the Chief Customs Authority of the Presidency or place, be repaid by the Officer in charge of the Custom House to such importer, owner, or consignee.

Expenses of Carriage, packing, &c., to be borne by owners.

CI. The expenses of carriage, packing, and stowage of goods on their reception into or removal from a warehouse, shall, if paid by the Officer in charge of the Custom House, or by the warehouse-keeper, be chargeable on the goods, and be defrayed by the importer, owner, or consignee, in like manner as the Duties of Customs.

Payment of rent and warehouse dues. In case of failure, goods may be sold, &c.

CII. If goods be lodged in a public warehouse, the importer, owner, or consignee shall further pay monthly, on receiving a bill or written demand for the same from the warehouse-keeper, the rent and warehouse dues. If any such bill for rent or warehouse dues be not discharged within ten days from the date of presentation, the Officer in charge of the Custom House shall have power, in liquidation of such demand (any transfer or assignment of the goods notwithstanding), to cause to be sold by public auction, after due notice in the Official Gazette, such sufficient portion of the goods as he may select. Out of the proceeds of such sale, the Officer in charge of the Custom House shall first satisfy the demand for the liquidation of which the sale was ordered, and shall then pay over the surplus, if there be any, to the importer, owner, or consignee; provided that application for the same be made within one year from the date of the sale of the goods, or that good reason be shewn why such application was not so made.

Disposal of proceeds.

On goods being removed otherwise than for export, &c., full Duty to be paid.

CIII. If any goods warehoused as provided in this Act shall be removed or taken from the warehouse, otherwise than for removal to another warehouse as provided in Sections CV., CVI., CVII., and CVII., of this Act, or for

exportation by Sea to some Foreign Port or place; or if any goods shall not have been cleared from the warehouse and so exported at the expiration of the time during which such goods are permitted by this Act to remain in warehouse, the Officer in charge of the Custom House shall thereupon demand the full amount of import Duty which is chargeable on account of such goods, together with all charges or penalties due on account of them.

On failure to pay Duty, Officer in charge of Custom House may proceed against goods, or under the bond, and may detain goods and sell after ten days, if demand not paid.

CIV. If any importer, owner, or consignee shall fail to pay any Duty or penalty that shall fall due on account of goods warehoused under this Act, it shall be lawful for the Officer in charge of the Custom House either to proceed upon the bond executed by such importer, owner, or consignee, or to cause such portion as to him shall seem fit of the warehoused goods, on account of which the Duty or penalty is demanded, to be detained in satisfaction thereof; and if the demand be not discharged within ten days from the date of such detention (due notice thereof being given to the importer, owner, or consignee), the goods so detained shall be liable to be sold by public auction in satisfaction of the demand after due notice in the Official Gazette. The proceeds of any sale so made of goods so detained, shall be written off upon the bond in discharge thereof to the amount received, less the charges of the sale; and if any surplus be obtained from such sale, beyond the amount of the demand, such surplus shall be paid over to the importer, owner, or consignee of the goods; provided that application for the same be made within one year from the date of the sale, or that good reason be shown why such application was not so made. No transfer or assignment of goods shall prevent the Officer in charge of the Custom House from proceeding against such goods in the manner above provided for any demand of Customs Duties or penalty claimed thereon.

Disposal of proceeds.

Goods may be removed from one warehouse to another, application being made according to prescribed form.

CV. Any importer, owner, or consignee of goods warehoused under this Act, or any agent of such importer, owner, or consignee may, with the permission of the Chief Officer of Customs of the Port, and on such conditions

and after giving such security as the Chief Customs Authority of the Presidency or place shall direct, remove goods from one public or private warehouse to another warehouse in the same Port. When any person shall desire so to remove any goods, he shall make application in the form marked E annexed to this Act, or in such other form as the said Chief Customs Authority shall from time to time prescribe.

Bonded goods may be removed from one Port to another.

CVI. Goods warehoused under this Act at any Port or place in British India may in like manner be removed by Sea or by inland carriage in order to be re-warehoused at any other Port or place in British India in which the like kind of goods may lawfully be warehoused. Such goods may also again in like manner be removed to any other such Port or place to be there again warehoused. When any person shall desire so to remove any goods, he shall make application to the Chief Officer of Customs of the Port or place at which they are warehoused, stating the particulars of the goods to be removed, and the name of the Port or place to which it is intended that they shall be removed, together with such other information, and in such manner and form, as the Chief Customs Authority of the Presidency or place shall from time to time prescribe.

Procedure.

Officers at Port of removal to transmit account of goods to Officers at Port of destination. Owner to execute bond for due arrival, &c.

CVII. When permission is granted for the removal of any goods from one warehousing Port or place to another under the last preceding Section, an account containing the particulars thereof shall be transmitted by the proper Officer of the Port or place of removal to the proper Officer of the Port or place of destination, and the person requiring the removal shall enter into a bond, with one sufficient surety, in a sum equal at least to the Duty chargeable on such goods, for the due arrival and warehousing thereof at the Port or place of destination, within such time as the Chief Customs Authority of the Presidency or place shall direct. Such bond may be taken by the proper Officer, either of the Port or place of removal, or of the Port or place of destination, as shall best suit the residence or convenience of the persons interested in such removal. If such bond shall be taken at the

Port or place of destination, a certificate thereof, signed by the proper Officer of such Port or place shall, at the time of the entering of such goods, be produced to the proper Officer of the Port or place of removal, and such bond shall not be discharged unless such goods shall be produced to the proper Officer, and duly re-warehoused at the Port or place of destination, within the time allowed for such removal, or shall be otherwise accounted for to the satisfaction of such Officer; nor until the full Duties due upon any deficiency of such goods, not so accounted for, shall have been paid.

Remover may enter into a general bond.

CVIII. It shall be lawful for the Chief Customs Authority of any Presidency or place to permit any person desirous of removing warehoused goods, to enter into a general bond, with such sureties, in such amount, and under such conditions, as such Chief Customs Authority shall approve, for the removal from time to time of any goods from one warehouse to another, either in the same or in a different Port or place, and for the due arrival and re-warehousing of such goods at the Port or place of destination, within such time as the said Chief Customs Authority shall direct.

Goods on arrival at Port of destination to be subject to same laws as goods on first importation.

CIX. Upon the arrival of warehoused goods at the Port or place of destination, they shall be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof, and under the laws and rules, in so far as such laws and rules can be made applicable which regulate the entry and warehousing of such last-mentioned goods.

Goods brought into one Indian Port, but intended for another Indian Port, may be trans-shipped without payment of Duty on security being given.

CX. When goods are brought in any vessel to any Port in British India, and application is made for leave to trans-ship such goods for removal to some other Port in British India, such trans-shipment shall be allowed without the payment of Duty at the Port of trans-shipment, provided that the person requiring such trans-shipment shall enter into a bond with such security as may be required of him, in a sum equal at least to the Duty chargeable on such goods, for the due arrival and entry thereof at the Port of destination within such time as the Chief Officer of Customs

of the Port of trans-shipment shall direct. Such goods shall thereupon be treated in all respects as warehoused goods, removed under the provisions of Sections CVI. and CVII. of this Act. An Officer of Customs shall, in every case, be deputed to superintend the removal of such goods from vessel to vessel. [Amended by Act XX., 1867.]

On arrival of destination of goods removed under Sec. CX., they may, after formal re-warehousing, be entered for exportation or home use on payment of Duties.

CXI. If, on the arrival at the Port of destination, of goods removed under the last preceding Section, the person making the removal shall be desirous forthwith to export such goods by Sea to some Foreign Port or place, or to pay Duty thereon for home consumption without actually lodging the goods in the warehouse for which they had been entered, the Officer in charge of the Custom House at such Port of destination may, after all the formalities of entering and examining such goods for re-warehousing shall have been duly performed, permit the goods to be entered and shipped for exportation, or to be entered and delivered for home consumption, upon payment of the Duties due thereon, in like manner as if such goods had been actually lodged in such warehouse. All goods so exported, or for which the Duties have been so paid, shall be deemed to have been duly cleared from the warehouse.

Removal of goods to be noted on the bond, with particulars.

CXII. When any goods warehoused, as provided in this Act, shall be removed from any public or private warehouse, the Officer in charge of the Custom House shall cause such removal to be noted on the back of the bond. Every note so made shall specify the quantity and description of goods removed, the purposes for which they have been removed, the date of removal, the name of the person removing them, the number and date of the Export Pass under which they have been taken away, if removed for exportation by Sea, or of the Import Pass or order, if removed for home consumption, and the amount of Duty (if any) paid.

A register of bonds to be kept. When the bonds are to be cancelled and returned to the obligee.

CXIII. A register shall be kept of all bonds entered into for Customs Duties on goods warehoused, as provided in this Act, and entry shall be made in such register of all particulars specified in the last preceding Section. When the register

shall show that the entire quantity of the goods covered by any bond has been withdrawn from warehouse, either owing to the goods being passed for home consumption on the payment of Duties, or owing to their re-exportation by Sea to some Foreign Port or place, and when all charges and penalties which have been incurred on account of such goods shall have been paid, it shall be competent to, and shall be the duty of, the Officer in charge of the Custom House, to cancel such bond, as discharged in full, and to deliver it, so cancelled, to the person who shall have executed or who shall be authorised to receive it.

Duty on warehoused goods to be settled within three years.

CXIV. In no case shall the settlement of Duty on warehoused goods be delayed beyond three years from the date of the first warehousing of the goods in British India.

Provisions relating to private warehouses applicable to Bengal Bonded Warehouse Association.

CXV. All the provisions of this Act relating to private warehouses shall be applicable to all warehouses wherein the Bengal Bonded Warehouse Association shall receive bonded goods.

EXPORTATION.

Permission for entry outwards to be obtained before export cargo is put on board.

CXVI. No vessel shall be entitled to entry outwards, or to take on board any part of her export cargo, until a written application shall have been duly made to the Officer in charge of the Custom House by the Master or Commander of such vessel, or by his authorized agent, nor until an order shall have been given thereon by such Officer for such entry or shipment of cargo. Every application made under this Section shall specify the name, tonnage, and nation of the vessel, the name of the Master or Commander, and the name of every place for which cargo is to be shipped. If any goods be taken on board of any vessel at any Port in British India before she shall have been so entered outwards at such Port, the Master or Commander of such vessel shall be liable to a penalty not exceeding one thousand Rupees.

Penalty.

Period allowed for the shipment of export cargo.

CXVII. A period of fifteen working days, after the expiration of the period allowed for discharging import cargo under Section LI. of this Act, or such further period as the Officer in charge of the Custom House shall direct, shall be allowed (without charge for

the Officer of Customs) for the shipment of export cargo on board of every vessel not exceeding six hundred tons. One additional day shall in like manner be allowed for every fifty tons in excess of six hundred. If the period occupied in the shipment of export cargo be in excess of that allowed, the vessel shall be charged with the expense of the Officer of Customs at a rate not exceeding five Rupees per diem (Sundays and holidays excepted) for such excess period. Due allowance shall in such case be made for any period during which a vessel, after the completion of the discharge of import cargo, and before the commencement of the shipment of export cargo, shall be laid up by the withdrawal of the Officer of Customs upon application from the Master or Commander. If the Master or Commander of any vessel so laid up shall, before application is made by him or his agent for an Officer of Customs to superintend the receipt of cargo, cause or suffer to be put on board of such vessel any goods whatever, such Master or Commander shall be liable to a penalty not exceeding one thousand Rupees, and the goods, if protected by a pass, shall be liable to be re-landed for examination at the expense of the vessel, and if not protected by a pass, shall be liable to confiscation.

Consequence of exceeding same.

Penalty for lading in the absence of Customs Officer.

CXVIII. Except with the written permission of the Officer in charge of the Custom House, no goods, with the exception of passengers' baggage, shall, on any Sunday, or on any holiday or day on which the shipping of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be shipped or water-borne to be shipped for exportation from any Port in British India; nor, except with such written permission, shall any goods be so shipped or water-borne to be shipped on any day except between such hours as such Chief Customs Authority shall from time to time appoint by Notice in the Official Gazette; nor from any place in any such Port except a Wharf duly appointed for such purpose; nor without the presence of the proper Officer of Customs; nor before due entry outwards of the exporting vessel, and of the goods: nor before such goods shall have been duly cleared for shipment. Any person who shall cause or suffer any goods to be shipped or water-borne to

Goods not to be shipped except on proper days and places, nor until entry and clearance.

be shipped contrary to any of the provisions of this Section shall, in every such case, be liable to a penalty not exceeding One thousand Rupees; and any goods so unauthorizedly shipped or water-borne for shipment, together with any vessel in which they are being so water-borne, shall be liable to confiscation.

Penalty for contravention.

CXIX. It shall be lawful for an Officer of Customs to open any package, and fully to examine any goods shipped or brought for shipment at any place in British India.

Customs Officer may open package and examine goods shipped.

CXX. It shall be competent to the Officer in charge of the Custom House at any Port in British India at any time to send at his discretion one or more Officers of Customs on board of any vessel clearing from such Port. Every Officer of Customs so sent shall remain on board of such vessel by day and by night, until it shall be otherwise ordered by the Officer in charge of the Custom House. Provided that it shall be competent to the Officer in charge of the Custom House to direct, whenever he may see fit so to do, and on such conditions as he may see fit to impose, that the shipment of cargo may take place without the presence of an Officer of Customs.

Officer in charge of Custom House may send Officers of Customs on board of any vessel clearing from Port.

And may allow shipment without presence of Officer.

CXXI. Every Master or Commander of a vessel who shall refuse to receive on board an Officer of Customs deputed as above provided, shall be liable to a penalty not exceeding five hundred Rupees for each day during which such Officer shall not be received on board; and the vessel shall not be allowed to take in cargo until the penalty is paid.

Penalty for refusal to receive on board a deputed Officer of Customs.

CXXII. Every Master or Commander of a vessel, who is bound to receive on board an Officer of Customs under Section CXX. of this Act, shall also be bound to receive on board one servant of such Officer, and to provide such Officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water and with the means of cooking on board. If any Master or Commander shall wilfully disobey the direc-

One servant to be received on board with each Officer of Customs.

Accommodation of Officer, &c.

Penalty.

tions contained in this Section, he shall in every such case be liable to a penalty not exceeding five hundred Rupees.

Exporter to deliver shipping bill before shipping any goods.

CXXIII. No goods shall be shipped or water-borne to be shipped for exportation, until the exporter or his agent shall have filled in and delivered to the Officer in charge of the Custom House, or other proper Officer, a shipping bill of such goods in the form marked F appended to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place.

On entry outwards, bond-note to be given for the shipping and landing.

CXXIV. Before any warehoused goods, or goods subject to duties of Excise, or goods entitled to drawback of Customs on exportation, or goods exportable only under particular rules or restrictions, shall be permitted to be exported, the exporter or his agent shall, if required so to do, give security by bond in such sum not exceeding twice the Duty leviable on such goods, as the Officer in charge of the Custom House shall direct, with one sufficient surety, that such goods shall be duly shipped, exported and landed, at the place for which they are entered outwards, or shall be otherwise accounted for, to the satisfaction of such Officer.

Boat-note.

CXXV. When any goods shall be sent for the purpose of being shipped for exportation on board of any vessel, there shall be sent with each boat-load or other separate despatch a boat-note specifying the number of packages so sent and the marks and numbers or other description thereof. Each boat-note shall be signed by the proper Officer of Customs, and shall be delivered to the Officer of Customs who is on board of the vessel on which such goods are to be shipped, if any such Officer be on board. If no such Officer be on board, every such boat-note shall be delivered to the Master or Commander of the vessel, or to an Officer of the vessel appointed by such Master or Commander to receive it. If any person so receiving any such boat-note shall fail to deliver it, when required so to do by any Officer of Customs authorized to make such requisition, such person shall be liable to a penalty not exceeding five hundred Rupees.

Penalty for non-delivery of boat-note.

No vessel to depart without a Port-clearance.

CXXVI. No vessel, whether laden, partially laden, or in ballast shall depart from any Port in British India until a Port-clearance shall have been granted by the Officer in charge of the Custom House or other Officer duly authorized to grant the same. Every application for Port-clearance shall be made by the Master or Commander at least twenty-four hours before the intended departure of the vessel; and every Master or Commander of a vessel so applying for Port-clearance shall answer to the proper Officer of Customs such questions touching her departure and destination as shall be demanded of him. If any Master or Commander of a vessel shall attempt to depart without a Port-clearance, such Master or Commander shall be liable to a penalty not exceeding five hundred Rupees. If any vessel shall actually depart without a Port-clearance, the Master or Commander shall be liable to a penalty not exceeding one thousand Rupees; and such penalty may be levied by the Chief Officer of Customs of any Port in British India to which such vessel shall proceed or in which she shall be. A certificate of departure without Port-clearance, purporting to be signed by the Chief Officer of Customs of the Port from which any vessel is stated to have so departed, shall be sufficient *primâ facie* proof of the fact so certified.

Penalties.

No pilot to take charge of any vessel proceeding to Sea without production of Port-clearance.

CXXVII. Except when duly appointed by the Master Attendant at any Port, or by some other Officer duly empowered in that behalf by the Local Government, no Pilot shall take charge of any vessel proceeding to sea unless the Master or Commander of such vessel shall produce a Port-clearance. Every person convicted before a Magistrate of an infraction of this rule shall be liable to a penalty not exceeding one thousand Rupees.

Penalty.

The Master of a vessel, on applying for Port-clearance, to deliver a Manifest and certificates.

CXXVIII. The Master or Commander of every vessel intending to leave any Port in British India shall, at the time of applying for Port-clearance, deliver to the Officer in charge of the Custom House, or other duly authorized Officer, a Manifest in duplicate according to such form as may from time to time be prescribed

by the Chief Customs Authority of the Presidency or place, containing a full and true specification of all goods to be exported in the vessel; and shall also deliver to the Officer in charge of the Custom House, or other duly authorized Officer, such certificates as the Officer in charge of the Custom House, acting under the general instructions of such Chief Customs Authority, shall require. The Officer in charge of the Custom House, or other duly authorized Officer, when satisfied with the said certificates, and as to the correctness of the Manifest, shall grant a Port-clearance to the Master or Commander, and shall return at the same time to such Master or Commander one copy of the Manifest duly countersigned by the proper Officer of Customs.

Port-clearance may be refused unless all documents are delivered and charges paid.

CXXIX. It shall be competent to the Officer in charge of the Custom House to refuse Port-clearance to any vessel until the required Manifest and certificates are produced, and until all Port-dues and other charges and penalties due by such vessel, or by the Master or Commander thereof, are duly paid, or their payment secured by such guarantee, or by a deposit at such rate as the Officer in charge of the Custom House shall direct.

Certain goods if entered in Manifest and not shipped, liable to confiscation. Penalty for shipment of goods not in Manifest, &c.

CXXX. If any goods liable to Duty on importation, or taken from a warehouse to be exported, or entitled to drawback on exportation, which are enumerated in the Manifest of any vessel, shall not be duly shipped before the departure of such vessel, or shall not be duly certified by the proper Officer as short-shipped, such goods shall be liable to confiscation. If any goods not enumerated in such Manifest shall be taken on board of any such vessel, the Master or Commander shall be liable to a penalty not exceeding fifty Rupees in respect of every package of such goods. If any goods duly shipped on board of any such vessel be landed at any place other than that for which they shall have been so cleared, the Master or Commander of such vessel shall, unless the circumstance be accounted for to the satisfaction of the Officer in charge of the Custom House, be liable to a penalty not exceeding three times the value of such goods so landed.

CXXXI. When goods are passed through the Custom House for shipment on an application presented after Port-clearance shall have been granted, two per cent. upon the market value of any such goods not liable to Duty, or liable to specific Duties according to weight or quantity only, or to Duty according to value, and upon the Tariff value of goods so passed, which are liable to Duties on fixed Tariff valuations, shall in every case be levied in addition to any Duty to which such goods shall be ordinarily liable. Provided that nothing in this Section shall be deemed to apply to any shipment of Treasure or Opium.

Additional charge on goods passed for shipment after Port-clearance has been granted.

CXXXII. Upon an application being made to the Officer in charge of the Custom House, the Duty levied upon goods not shipped, or upon goods shipped and afterwards re-landed, shall be returned to the person on whose behalf such Duty was paid. Provided that no such refund shall be allowed unless application to reland shall have been made, or notice of non-shipment shall have been given, before the vessel on which such goods were intended to be shipped, or from which they were re-landed, shall have left the Port.

Duty on goods not shipped or re-landed may be returned on application.

Proviso.

CXXXIII. It shall be lawful for the Chief Customs Authority of any Presidency or place to appoint, for any Port within such Presidency or place, stations at which any vessel departing from such Port may be required to bring to for the landing from such vessel of Officers of Customs, or for further examination previous to such departure.

Stations may be appointed at which outward bound vessels shall bring to to land Officers of Customs.

CXXXIV. If the Master or Commander of any vessel departing from any Port in British India shall, when so required, fail to bring to at any station that shall have been appointed by the Chief Customs Authority of any Presidency or place under the last preceding Section, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees. If any vessel shall actually depart after failing to bring to when required, at any station appointed under the last preceding Section, the penalty leviable under this Section from the Master

Penalties in case of vessels not bringing to at prescribed Stations.

or Commander of such vessel may be levied by the Chief Officer of Customs of any Port in British India to which such vessel shall proceed, or in which she shall be. A certificate of such failure to bring to when required, purporting to be signed by the Chief Officer of Customs of the Port from which the vessel is stated to have so departed, shall be sufficient *primâ facie* proof of the fact so certified.

Goods re-landed from a vessel returning to Port, or putting into another Port, how to be dealt with.

CXXXV. If any vessel, after having cleared from any Port in British India, shall, without having discharged her cargo, return to such Port, or put into any other Port in British India not being a Free Port, any owner or shipper of cargo in such vessel, or the agent of any such owner or shipper, if he shall desire to land the same or any portion thereof for re-export, may make application to the Officer in charge of the Custom House; who, if he grant such application, shall thereupon send an Officer of Customs to watch the vessel, and to take charge of the cargo during such re-landing or removal from on board. Goods on board of such vessel shall not be allowed to be transhipped or re-exported free of Duty, by reason of the previous settlement of Duty at the time of first export, unless such goods shall be lodged and shall remain, under charge of an Officer of Customs, in a place appointed by the Officer in charge of the Custom House, until the time of re-export. All charges attending such custody shall be borne by the exporter.

Vessel returning to Port may enter and land goods under import rules.

CXXXVI. In any case of the return of any vessel to Port, after Port-clearance, it shall be lawful for the Master or Commander of such vessel, or for any owner or shipper of cargo therein to enter such vessel and to land such cargo under the rules for the importation of goods. In every such case the Export Duty shall be refunded to, and the amount paid in drawback shall be reclaimed from, such owner or shipper; and if any goods, on account of which drawback has been paid, be not found on board of any such vessel, the Master or Commander shall be liable to a penalty not exceeding the entire value thereof, unless the fact be accounted for to the satisfaction of the Officer in charge of the Custom House.

Penalty for deficiency.

DRAWBACK.

CXXXVII. Upon the re-export by Sea, to any Foreign Port or place, of any goods, except Salt or Opium, imported by Sea into British India from any Foreign Port or place, and upon which Duties of Customs have been paid on importation, seven-eighths of such Duty shall be repaid as drawback, and one-eighth shall be retained as reserved Duty. Provided that in every such case the goods be identified to the satisfaction of the Officer in charge of the Custom House; and that the re-export be made within two years from the date of importation, as shown by the Custom House Register, or within such extended term as the Chief Customs Authority of the Presidency or place shall on sufficient cause for such extension being shown, in any case determine. No re-payment shall be made under this Section on account of any article entered in the Export Manifest of the Vessel as Ship's Stores. Articles on which, though they be not country articles, an Export Duty is chargeable by law, shall not, on re-exportation, be entitled to claim exemption from such Export Duty by reason of their having paid Duty on importation. But it shall be lawful for the said Chief Customs Authority in any such case to direct that no reservation of any part of the Import Duty be made on the re-exportation of such articles.

Amount of drawback allowable on re-export.

Conditions for grant of drawback.

CXXXVIII. No payment of drawback shall be made upon any goods re-exported from any Port in British India, unless the claim to receive such drawback be made and established at the time of re-export, nor unless payment be demanded within one year from the date of entry for shipment. No such payment of drawback shall be made until the vessel carrying the goods has put out to Sea.

Time to claim and demand payment of drawback.

CXXXIX. No drawback shall be allowed upon the exportation of any goods entered for drawback, which shall be of less value than the amount of the drawback claimed. All such goods so entered shall be liable to confiscation.

Drawback not allowed on goods of value less than amount claimed. Such goods liable to confiscation.

No drawback on goods not entered in Export Manifest.

CXL. No drawback shall be allowed upon goods not included in the export Manifest.

No drawback allowed except on goods exported out of India.

CXLI. No drawback shall be allowed upon goods exported from one Port in British India, to another such Port, not being a Free Port. But drawback may be allowed upon goods which, after having been charged with Duty at one Port in British India, and thence exported to another such Port not being a Free Port, are thence again re-exported by Sea to a Foreign Port or place. Provided that in every such case the goods be identified to the satisfaction of the Officer in charge of the Custom House at the Port of final exportation, and that such final exportation be made within three years from the date of the importation into British India.

Proviso.

Declaration to be made by parties claiming drawback.

CXLII. Any person, or the duly authorized agent of any person claiming drawback on any goods duly exported shall make and subscribe a declaration that such goods have been actually exported and have not been re-landed and are not intended to be re-landed at any Port in British India; and that such person was, at the time of entry and shipment, and continues to be, entitled to drawback thereon.

Drawback goods, if not exported, or if re-landed, liable to confiscation, and parties concerned to penalty.

CXLIII. If any goods on the entry of which for re-export drawback shall have been paid shall not be duly exported to a Foreign Port or place, or shall be un-shipped or re-landed at any Port in British India (not having been duly re-landed or discharged as short-shipped under the care of an Officer of Customs, or under Section CXXXV. or Section CXXXVI. of this Act), such goods, together with any vessel used in so un-shipping or re-landing them, shall be liable to confiscation; and the Master or Commander of the vessel from which such goods shall be so un-shipped or re-landed, and any person by whom or by whose orders or means such goods shall be so un-shipped or re-landed, or who shall aid or be concerned in such un-shipping or re-landing, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand Rupees.

Drawback of Duties on wine allowed for Officers of the Navy.

CXLIV. A drawback of the whole of the Duties of Customs shall be allowed for wine intended for the consumption of any Officer of Her Majesty's Navy, on board of any of Her Majesty's ships in actual service, unless such wine shall have been warehoused without payment of Duty on the first entry thereof. The quantity of wine on which drawback may be so allowed in any one year for the use of any such Officer shall not exceed the proportions specified below, that is to say:—

	Gallons.
For every Admiral	1,260
Vice-Admiral	1,050
Rear-Admiral	840
Captain of 1st and 2nd rate	630
Captain of 3rd, 4th, and 5th rate	420
Captain of an inferior rate	210
Lieutenant or other Commanding Officer, and for every marine Officer, Master, Purser, or Surgeon	105

Persons entering such wine for drawback to declare the name and rank of Officer claiming the same.

CXLV. Every person clearing and claiming drawback for wine as provided in the last preceding Section, shall state in the entry the name of the Officer for whose use such wine is intended, and of the ship in which he serves, as well as the place and date of the last supply for which drawback was allowed. All such wine shall be delivered into the charge of the proper Officers of Customs at the Port of shipment, to be shipped under their care; and when the Officer commanding the ship shall have certified the receipt of such wine into his charge, and the proper Officer of Customs shall have certified the shipment, the drawback shall be paid to the person entitled to receive the same.

Transfer of wine from one Naval Officer to another, &c.

CXLVI. The Officer in charge of the Custom House may permit the transfer of any such wine from one Naval Officer to another Naval Officer, on board of the same or of any other such ship, as part of his authorized proportion; or may permit the trans-shipment of any such wine from one ship to another for the use of the same Naval Officer; or the re-landing and

warehousing of any such wine for future re-shipment. The Officer in charge of the Custom House may also receive back the Duties for any such wine, and allow the same to be cleared for home consumption.

Wine not laden or unladen without permission, liable to confiscation.

CXLVII. If any such wine be not laden on board of the ship for which it was intended, or be unladen from such ship without the permission of the proper Officer of Customs, such wine shall be liable to confiscation.

Provisions and stores for Her Majesty's Navy exempt from Duty.

CXLVIII. Provisions and stores for the use of Her Majesty's Navy shall, in like manner, be passed free of Duty; and where Duties shall have been paid on such provisions and stores, drawback of such Duties, whether of Customs or Excise, shall be allowed on receipt of application in writing from the Officer commanding the ship for which they are intended, or from some other Officer duly authorized to make such application.

COASTING TRADE.

No duties on goods carried in coasting vessel.

Proviso.

CXLIX. No Duties of Customs shall be levied on any goods lawfully carried in any coasting vessel. Provided that nothing in this Section shall apply to Opium, Salt, or Spirits manufactured after the English method; or to goods brought from any Foreign Port or place to any Port in British India, and there trans-shipped for, or thence carried to, any other Port in British India without payment of Duty; or to goods removed in bond.

No drawback for goods shipped in a coasting vessel.

CL. No drawback shall be allowed for any goods shipped in any coasting vessel; but this shall not interfere with the allowance of drawback for goods duly manifested and exported by Sea to any Foreign Port or place in any Native vessel, other than a coasting vessel.

Local Government may regulate carriage of goods coastwise.

CLI. The Local Government, acting under the general instructions of the Government of India, may from time to time determine, by rules to be published in the Official Gazette, on what conditions, and on what conditions only, goods may be carried coastwise, though not shipped at any Port in British

India to be so carried; also in what cases, and in what cases only, goods may be shipped in a vessel to be carried coastwise before all goods brought in such vessel from a Foreign Port or place shall have been unladen. If, in contravention of any such rules so published, any goods shall be taken into or put out of any coasting vessel; or any coasting vessel shall touch at any Foreign Port or place, or deviate from her voyage, unless forced by unavoidable circumstances; or if the Master or Commander of any coasting vessel which shall have touched at a Foreign Port or place shall fail to declare the same in writing to the Officer in charge of the Custom House at the Port in British India at which such vessel shall afterwards first arrive, the Master or Commander of such vessel shall be liable to a penalty not exceeding one thousand Rupees, and shall further be liable to pay double Duty upon all goods landed or shipped at such Foreign Port or place, in addition to the ordinary Duty which shall in every case be levied on such goods.

Penalty for contravention.

CLII. Except with the written permission of the Officer in charge of the Custom House, no goods, with the exception of passengers' baggage, shall on any Sunday or on any holiday or day on which the shipping or landing of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be unshipped from any vessel arriving coastwise, or be shipped, or water-borne to be shipped, for carriage coastwise, at any Port in British India; nor, except with such written permission, shall any goods be so un-shipped, or shipped, or water-borne to be shipped, on any day except between such hours as the Chief Customs Authority shall from time to time appoint by notice in the Official Gazette; nor from any place in any such Port except a wharf duly appointed for such purpose; nor without the presence or authority of the proper Officer of Customs. Any person who shall cause or suffer any goods to be un-shipped, shipped, or water-borne to be shipped, contrary to any of the provisions of this Section, shall in every such case be liable to a penalty not exceeding five hundred Rupees; and any goods so unauthorizedly un-shipped, shipped, or removed for shipment, shall be liable to confiscation.

Times and places for shipping of goods.

Penalty for contravention.

CLIII. The Master or Commander of every coasting vessel shall keep, or cause to be kept, a cargo-book in which shall be stated the name of the Master or Commander, the vessel, the Port to which she belongs, and the Port to which on each voyage she is bound. At every Port of lading such Master or Commander shall enter, or cause to be entered, in such book the name of such Port, and an account of all goods there taken on board of such vessel, with a description of the packages, and the quantities and descriptions of the goods contained therein or stowed loose, and the names of the respective shippers and consignees, in so far as such particulars are known to him. At every Port of discharge of any such goods, such Master or Commander shall enter, or cause to be entered, in such book the respective days on which such goods or any of them are delivered out of such vessel. The respective times of departure from every Port of lading, and of arrival at every Port of discharge, shall in like manner be duly entered. Every such Master or Commander shall, on demand, produce his cargo-book for the inspection of any Officer of Customs, and such Officer shall be at liberty to make any note or remark therein; and if, upon examination, any package entered in the cargo-book as containing Foreign goods, shall be found not to contain such goods, such package, with its contents, shall be liable to confiscation; or if any package shall be found to contain Foreign goods not entered, or not entered as such, in such book, such goods shall be liable to confiscation. If any such Master or Commander shall fail correctly to keep such cargo-book, or to produce the same on demand; or if at any time there be found on board of any such vessel any goods not entered in such book as laden, or any goods noted as delivered; or if any goods entered as laden and not noted as delivered, be not on board, the Master or Commander of such vessel shall be liable to a penalty not exceeding five hundred Rupees.

Rules respecting cargo-book to be kept by Master of coasting vessels.

Penalty for breach of rules.

CLIV. Before any coasting vessel shall depart from the Port of lading, an account, with a duplicate thereof in the form marked G appended to this Act, or in such other form as may

Coasting vessels to deliver account and obtain Port-clearance before leaving Port of lading.

from time to time be prescribed by the Chief Customs Authority of the Presidency or place, shall be filled in and signed by the Master or Commander and delivered to the Officer in charge of the Custom House. Such Officer shall retain the duplicate and return the original account, dated and signed by him; and such account shall be the clearance of the vessel for the voyage and the pass for the goods expressed therein. If any such account be false, the Master or Commander shall be liable to a penalty not exceeding five hundred Rupees.

Penalty in case of account being false.

CLV. The Officer in charge of the Custom House may, on good and sufficient reason, refuse Port-clearance on any vessel declared to be bound to any Port in British India, unless the owner, agent, Master, or Commander shall give a bond with sufficient security for the production to the Officer in charge of the Custom House of a certificate from an Officer of the Port to which such vessel is said to be bound, of her arrival at such Port within a fair and reasonable time to be prescribed in each case by the Officer requiring the bond. On failure to produce such certificate, or to show sufficient reason for its non-production, the parties to the bond shall be bound to pay a penal sum equal to double the amount of Customs Duties which would have been chargeable on the export cargo of the vessel had she been declared to be bound to a Foreign Port.

Officer in charge of Custom House may require a bond before Port-clearance is granted.

Penalty for failure to produce certificate.

CLVI. The Chief Customs Authority of any Presidency or place may, on cause being shown, permit a general pass to be given, on any conditions which may be deemed expedient, for the lading and clearance, and for the entry and unlading of any coasting steam vessel at any Ports of despatch or destination, or at any intermediate Ports at which she may touch for the purpose of receiving goods or passengers. Any such general pass may be revoked by notice in writing under the hand of the proper Officer, delivered to the Master or Commander, or to the owner of such steam vessel, or to any of the crew on board.

Grant and revocation of general pass.

CLVII. Within twenty-four hours after the arrival of any coasting vessel at the Port of discharge, and before any goods are unladen therefrom, the pass, with the name of the place or wharf where the cargo is to be discharged noted thereon, shall be delivered to an Officer of the Port, who shall note thereon the date of delivery. Any Master or Commander who shall fail so to deliver a pass within twenty-four hours after arrival, shall be liable to a penalty not exceeding two hundred Rupees.

Time for delivery of pass, and penalty for failure.

CLVIII. If any of the goods on board of any coasting vessel be subject to any Duty of Excise, such goods shall not be unladen without the permission of the proper Officer of Excise.

Goods on coasting vessel, if excisable, not to be unladen without due permission.

CLIX. If, contrary to the provisions of this or any other Act relating to the Customs, any goods shall be laden on board of any vessel in any Port or place in British India and carried coastwise, or any goods which have been brought coastwise shall be unladen in any such Port or place, or any goods shall be found on board of any coasting vessel without being entered in the clearance thereof, such goods shall be liable to confiscation, and the Master or Commander of such vessel shall, in every such case, be liable to a penalty not exceeding five hundred Rupees.

Penalty for breach in respect of lading, carrying coastwise, and unlading.

CLX. Any duly empowered Officer of Customs may go on board of any coasting vessel in any Port or place in British India, and may at any period of a voyage search any such vessel and examine all goods on board and all goods then lading or unlading, and may demand the production of any document which ought to be on board of any such vessel. The Officer in charge of the Custom House may further require that any such document belonging to any coasting vessel then in Port shall be brought to him for inspection. If the Master or Commander of any such vessel shall refuse to bring any such document to the Officer in charge of the Custom House when so required, such Master or Commander shall be liable to a penalty not exceeding two hundred Rupees.

Customs Officers may go on board and examine any coasting vessel.

Penalty for refusal to produce documents.

CARGO BOATS.

CLXI. It shall be lawful for the Local Government of any Presidency or place to declare with regard to any Port within its jurisdiction, by Notification in the Official Gazette, that after a stated date no boat which shall not have been duly licensed and registered will be allowed to ply as a cargo-boat for the landing and shipping of merchandize within the limits of such Port. After the issue of such Notification with regard to any Port, any goods found within the limits of such Port on board of any boat not duly licensed and registered shall, unless such goods be covered by a special permit from the Officer in charge of the Custom House, be liable to confiscation.

Local Government may prohibit plying of unlicensed cargo-boats.

Goods found in unlicensed cargo-boats may be confiscated.

CLXII. It shall be lawful for the Chief Officer of Customs of any Port with regard to which a Notification shall have been issued under the last preceding Section, to issue licenses for and to make registration of cargo-boats, under such rules, and on payment of such fees as the Local Government shall from time to time prescribe. Any table of fees prescribed under this Section shall be published in the Official Gazette.

Issue of licenses.

SPIRITS.

CLXIII. It shall be lawful for the Chief Customs Authority of any Presidency or place to prescribe from time to time the conditions on which and the rules under which spirits manufactured in British India after the English method may be removed from any licensed distillery for exportation without payment of Duty of Excise. The person so removing any such spirit, shall execute to the Government a bond with one or more sureties, in the form marked H annexed to this Act, or in such other form as the said Chief Customs Authority shall from time to time prescribe, for the payment of Duty on such portion of the said spirits as shall not be exported within four months from the date of the bond, and upon any portion which shall be exported to any other Port in British India, not being a Free Port, but proof of the landing whereof and of payment of Duty of Customs whereon at the Port of destination shall not be

Rules for removal of spirits from distillery without payment of Duty, and for exportation thereof.

furnished to the satisfaction of the proper Officer within six months from the date of the bond. It shall be lawful for the Chief Officer of Customs of the Port of exportation, to extend for a further term not exceeding four months, on sufficient cause shown, the period allowed for the exportation of any such spirits, or for the production of such proof that Duty has been paid.

Spirits for export to be taken direct from Distillery to Custom House under pass.

CLXIV. Spirits for exportation under bond for the Duty Excise shall be taken from the distillery direct to the Custom House, under passes to be granted for that purpose by the Officers of Excise.

Rules to be observed in the exportation of spirits.

CLXV. Spirits brought to the Customs House for exportation by Sea, shall, previous to shipment, be gauged and proved by an Officer of Customs. Any drawback to be allowed for spirits on which Duty has been paid, shall be regulated by the strength and quantity of such spirits as ascertained by such proof and gauge; and the quantity of spirits for which credit is to be given in the settlement of any bond, shall be determined in the same manner.

Duty to be recovered on any deficiency in spirits under bond.

CLXVI. Duty shall be recoverable upon any difference between the quantity of spirits passed from a distillery, and the quantity ascertained by gauge and proof at the Custom House, less an allowance for ullage and wastage at such rates as shall from time to time be prescribed by the Local Government and notified in the Official Gazette.

Drawback of Excise Duty on spirits manufactured after the English method.

CLXVII. A drawback of Duty of Excise paid on spirits manufactured in British India after the English method, and exported to any Foreign Port or place under the provisions of Sections CXXIV. of this Act, shall be allowed by the Officer in charge of the Custom House at the Port of exportation. Provided that the exportation be made within one year from the date of payment of such Duty of Excise, and that the spirits, when brought to the Custom House, are accompanied by the pass in which such payment is certified.

No drawback allowed on spirits exported to Indian Ports not being Free Ports, but such spirits may be exported under bond.

CLXVIII. No drawback shall be allowed on spirits exported from any Port in British India to any other Port in British India not being a Free Port. But it shall be lawful on the conditions and under the rules prescribed from time to time,

under Section CLXIII. of this Act, to export from any such Port to any other such Port, under bond for the duty of Excise, spirits manufactured in British India after the English method. Every such bond shall be cancelled on the production, by the exporter or his agent, of a certificate from the Officer in charge of the Custom House at the Port of importation, testifying to the due entry at such Port of the full quantity of such spirits so exported, less an allowance for ullage and wastage at such rates as shall from time to time be prescribed by the Local Government, and notified in the Official Gazette.

Duty on Spirits exported from one Indian Port to another, how to be adjusted.

CLXIX. Spirits manufactured in British India after the English method and exported under bond for the Duty of Excise from any Port in British India to any other Port in British India not being a Free Port, shall be chargeable at the Port of destination with Duties of Customs at the ordinary rate fixed for Duties on Spirits of the like kind and strength imported into such Port.

Rum Shrub, &c., how to be charged with Duty.

May be exported under the same rules as spirits.

CLXX. Any Rum Shrub, cordial, and other such liquor prepared in a licensed distillery under supervision of the Surveyor or Officer in charge of the distillery, shall be charged with Duty according to the quantity of spirit used in its preparation as ascertained by such Surveyor or Officer. The provisions of this Act respecting Spirits manufactured after the English method, except such as relate to gauge and proof, shall apply to such liquor. When any such liquor is removed for exportation, without payment of Duty of Excise, the bond to be executed by the person removing it shall be in the form marked H annexed to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place.

Spirits intended for exportation may be removed for local consumption.

CLXXI. Spirits brought to the Custom House for exportation under bond for the Duty of Excise, may, on payment of such Duty, be removed for local consumption under passes to be granted for that purpose by the Officers of Excise. Credit for every such payment shall be given on settlement of the bond to which it relates.

CLXXII. No drawback shall be allowed for any Spirits on which Duty has been paid, nor shall the Duty due on any Spirits under bond be remitted, unless the Spirits shall be shipped from the Custom House, and in a vessel whereon an Officer of Customs has been appointed to superintend the receipt of export cargo. Spirits shipped for exportation shall not be re-landed without a special pass from an Officer of Excise in addition to the usual order of the Officer in charge of the Custom House.

Conditions of drawback and remission of Duty on Spirits.

Re-land of Spirits shipped.

CLXIII. Every person who, without a special pass from an Officer of Excise at the place of exportation, re-lands or attempts to re-land any spirituous liquor shipped for exportation, shall for every such offence be liable to a penalty not exceeding five hundred Rupees; and all such liquor, together with every cask or other article containing the same, and every boat, cart, or animal employed in conveying it, shall be liable to confiscation.

Penalty for irregularly re-landing spirituous liquors.

AGENTS.

CLXXIV. No person shall act in any Custom House as an Agent for the transaction of any business relating to the entrance or clearance of any vessel, goods, or baggage, unless authorised so to do by the Officer in charge of the Custom House. It shall be lawful for such Officer to require any person so authorised, to give a bond with sufficient securities, in any sum not exceeding five thousand Rupees, for the faithful behaviour of such person, as regards the Custom House Regulations and Officers. Every person who, not being so authorised, shall act as an agent, shall, for every such offence, be liable to a penalty not exceeding five hundred Rupees.

Agents must be duly authorized.

Penalty for acting without authority.

CLXXV. When any person shall make application to any Officer of Customs to transact any business on behalf of any other person, such Officer may require the person so applying to produce a written authority from the person on whose behalf such business is to be transacted, and in default of the production of such authority may refuse to transact such business. The Clerk or servant or known agent of any person or of any mercantile Firm

Agent to produce authority if required.

may transact business at the Custom House, on account of such person or Firm, if such person or a member of such Firm shall identify to the Officer in charge of the Custom House the person so empowered to transact his or their business, and shall deposit with such Officer a written authority duly signed, empowering such Officer to pay to such person all drawbacks, re-funds, and other moneys for which he shall produce receipts.

Duplicate Bills of Entry, &c.

Importer or exporter to deliver a duplicate of the bill of entry, or shipping bill, if required.

CLXXVI. Upon the entry or clearance of any goods, for importation or exportation, the importer, exporter, owner, or consignee, or the agent of such importer, exporter, owner, or consignee shall, if the Officer in charge of the Custom House so require, deliver to such Officer a duplicate of the bill of entry or shipping bill thereof. In such duplicate all sums and numbers may be expressed in figures.

Penalty for non-compliance with the foregoing provision.

CLXXVII. Every importer, exporter, owner, or consignee, and every agent of any such importer, exporter, owner, or consignee, who shall wilfully fail to comply with the provisions of the last preceding Section, shall be liable to a penalty not exceeding two hundred Rupees.

Taking of Samples.

Officer in charge of Custom House may take samples of goods.

CLXXVIII. An Officer in charge of a Custom House may, on the entry or clearance of any goods, or at any time while such goods are being passed through the Custom House, take samples of such goods for examination, or for ascertaining the value thereof on which Duties are payable, or for any other necessary purpose. Every such sample shall, if the owner so desire, and if it be possible, be restored to the owner; otherwise it shall be disposed of and accounted for to the owner as the Officer in charge of the Custom House shall direct.

Miscellaneous Provisions.

Local Government may, with sanction, fix value of *ad valorem* articles.

CLXXIX. It shall be lawful for the Local Government of any Presidency or place, with the sanction of the Governor General of India in Council, to fix from time to time by notice in the Official

Gazette, a value for any article liable to *ad valorem* Duty; and the value so fixed shall, until it is altered by a similar notice, be taken to be the value of such article for the purpose of levying Duty on the same. [Repealed by Act XVII., 1867, s. 3.]

Assessment of goods liable to Duty according to value.

CLXXX. In all cases in which goods are liable to Duty according to the value thereof, and in which no value shall have been fixed by a general tariff or under the last preceding Section, the value shall be assessed at the wholesale cash price less trade discount, for which goods of the like kind and quality are sold, or are capable of being sold at the time and place of importation or exportation respectively, without any abatement or deduction whatever, except of so much as the Duties payable on the importation thereof shall amount to.

Expense of piling, &c., timber chargeable by measurement by whom to be borne. No allowance for interstices.

CLXXXI. Any person entering any timber or wood chargeable with Duty by measurement, shall, at his own expense, pile, sort, frame, or otherwise place the same in such manner as the Officer in charge of the Custom House shall deem necessary to enable the Officers of Customs to measure and take account thereof. In all cases in which timber or wood is measured in bulk, the measurement shall be taken to the full extent of the pile, and no allowance shall be made by the Officers on account of interstices.

Trans-shipment of stores from one vessel to another of the same owner without payment of Duty.

CLXXXII. If two or more vessels belonging to the same owner be at any Port in British India at the same time, any articles of Marine Stores in use or ordinarily shipped for use on board may, at the discretion of the Officer in charge of the Custom House, be trans-shipped from one such vessel to any other such vessel without payment of import Duty.

Provisions, stores, &c., for consumption on vessels proceeding to Foreign Ports may be exported Duty free on certain conditions.

CLXXXIII. Provisions and other such Ship's Stores warehoused at the time of importation, may be exported without payment of Duty for use and consumption on board of any vessel proceeding to a Foreign Port or place. Articles of India produce or manufacture, including rum, required for use on board of any vessel proceeding to any Foreign Port or place, may also be exported free of Duty,

whether of Customs or Excise, in such quantities as the Officer in charge of the Custom House shall determine, with reference to the tonnage of the vessel, the numbers of the crew and passengers, and the length of the voyage on which the vessel is about to depart. Provided that no such rum shall be shipped as stores free of Duty on any vessel not going to a Foreign Port or place, or going on a voyage of less than thirty days' probable duration.

In case of dispute the Duty to be deposited pending orders of Chief Customs Authority.

CLXXXIV. If any dispute shall arise as to the proper rate of Duty payable in respect of any goods imported into, or exported from, any Port in British India, the importer, exporter, owner, or consignee of such goods, or his agent, shall deposit in the hands of the Officer in charge of the Custom House at the Port of importation or exportation respectively, the amount of Duty demanded by such Officer, pending the decision of the Chief Customs Authority. Upon payment of such deposit and compliance with the provisions of this Act relating to the entry of such goods, the Officer in charge of the Custom House shall cause the goods to be delivered to such importer, exporter, owner, or consignee, or his agent.

Payment of Duties short-levied, or erroneously refunded.

CLXXXV. When Duty or other Customs dues or charges have been short-levied through inadvertence, error, or mis-construction on the part of the Officers of Customs; or when Duty, after having been levied, has been erroneously refunded, the person chargeable with the Duty or charge so short-levied, or to whom such refund has erroneously been made, shall pay the deficiency or repay the amount paid to him in excess, on demand being made within six months from the date of the first assessment, or making of the refund; and it shall be lawful for the Officer of Customs to refuse to pass any goods belonging to such person until the said deficiency or excess be paid or repaid.

No refund of charges erroneously levied or paid, unless application be made within six months.

CLXXXVI. No Duty or other Customs dues or charges which shall have been charged and paid, and of which, or of a portion of which, repayment is claimed in consequence of the same having been charged or paid

under an erroneous construction of law or from other error shall be returned, unless such claim is made within six months from the date of such payment.

Importer and exporter to pay expense incidental to compliance with Custom House rules.

CLXXXVII. The un-shipping, carrying, shipping, and landing of all goods, and the bringing of them to the proper place for examination or weighing, and the putting of them into and out of the scales, and the opening, un-packing, bulking, sorting, lotting, marking, and numbering of goods, where such operations are necessary or permitted, and the removing of goods to, and the placing of them in, the proper place of deposit, shall be performed by or at the expense of the importer, exporter, owner, or consignee of such goods.

No compensation for loss or injury except on proof of wilful neglect.

CLXXXVIII. No importer, exporter, owner, or consignee of goods shall be entitled to claim from any Officer of Customs compensation for any loss or injury that may occur to such goods at any time while they remain or are lawfully detained in any Custom House, or on any Custom House Wharf, or under charge of any Officer of Customs, unless it shall be proved that such loss or injury was occasioned by the wilful act or neglect of an Officer of Customs.

Rates of wharfage fees to be fixed by the Chief Customs Authority.

CLXXXIX. The Chief Customs Authority of any Presidency or place may from time to time fix the rate to be charged on goods left on any Custom House Wharf or other authorized landing place, or part of the Custom House premises, for a period exceeding that prescribed by such Chief Customs Authority.

Saving of anchorage and harbour dues, also special dues on opium, tobacco, ganja, spirits, and salt.

CXC. Nothing contained in this Act shall be construed to prevent the levy of any anchorage or harbour dues now leviable at any Port in British India, or the levy of any special Duties on Opium, Tobacco, Ganja, Spirits or Salt, under any law which is or shall be in force in any part of British India.

Duplicates may be granted and amendments made on payment of fee.

CXCI. A Duplicate of any Certificate, Manifest, Bill or other Custom House document may, on payment of a fee of not less than one Rupee and not more than ten Rupees, be furnished, at the discretion of the Officer in charge of the Custom House,

if he is satisfied that no fraud has been committed or is intended. The Officer in charge of the Custom House may also authorize any amendment to be made in any document after it has been entered and recorded in the Custom House, upon payment of a like fee for every document so amended.

Customs Officers may be exempted from service on any jury or inquest.

CXCII. No Commissioner or Collector of Customs, or Officer of Customs whom a Commissioner or a Collector of Customs shall deem it necessary to exempt on grounds of public duty, shall be compelled to serve on any jury or inquest.

OFFENCES AND PENALTIES.

Penalty for Commanders of tug-steamers or pilot-vessels receiving or discharging any goods without due authority.

CXCIII. If any goods be put on board of any tug-steamer or pilot-vessel from any Sea-going vessel inward bound, or if any goods be put out of any tug-steamer or pilot-vessel for the purpose of being put on board of any outward bound vessel, or if any goods on which drawback shall have been granted shall be put on board of any tug-steamer or pilot-vessel for the purpose of being re-landed without the authority of the Officers of Customs, such goods shall be liable to confiscation, and the Master or Commander of such tug-steamer or pilot-vessel shall in such case be liable to a penalty not exceeding one thousand Rupees.

Penalty for shipping, landing, concealing, &c., contrary to Act.

CXCIV. Any person shipping or landing goods, or aiding in the shipment or landing of goods, or knowingly keeping or concealing, or knowingly permitting or procuring to be kept or concealed, any goods shipped or landed or intended to be shipped or landed, contrary to the provisions of this Act; and any person who shall be found to have been on board of any vessel liable to confiscation under Section XIII. of this Act, while such vessel was within any bay, river, creek, or arm of the Sea which had not then been declared to be and was not then existing as a Port for the landing or shipment of goods, shall be liable to a penalty not exceeding one thousand Rupees.

Vessels in Port with a cargo and afterwards found in ballast and cargo unaccounted for, liable to confiscation.

CXCV. If any vessel which shall have been within the limits of any Port in British India with cargo on board, be afterwards found in any Port, bay, river, creek, or arm of the Sea in

British India, light or in ballast, and if the Master or Commander be unable to give a due account of the Port or place in British India where such vessel lawfully discharged her cargo, such vessel shall be liable to confiscation.

Tackle, &c., and packages and contents included in confiscation of vessels and goods. Also conveyances used in removal.

CXCVI. The confiscation of any vessel shall be deemed to include her tackle, apparel, and furniture. The confiscation of any goods shall be deemed to include any package in which they are found, and all the contents thereof. Every boat, cart, or other means of conveyance, and every horse or other animal used in the removal of any goods liable to confiscation, shall in like manner be liable to confiscation.

Goods may be detained and Port-clearance refused pending the payment of fines incurred.

CXCVII. If any person in charge of or owning a vessel shall have become liable to any fine or penalty on account of any act or omission relating to the Customs, the Officer in charge of the Custom House may refuse Port-clearance to such vessel until the fine or penalty be discharged. If any person passing goods through the Custom House shall have become liable to any fine or penalty, the Officer in charge of the Custom House may detain such goods until the fine or penalty be discharged.

Persons reasonably suspected may be detained.

CXCVIII. Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this or any other Act relating to the Customs, may be detained by any Officer of Customs or other person duly employed for the prevention of smuggling.

Vessels, goods, and persons may be seized or detained.

CXCIX. Any vessel or goods liable to confiscation may be seized, and any person liable to be detained under this or any other Act relating to the Customs, may be detained in any place either upon land or water, by any Officer of Customs or other person duly employed for the prevention of smuggling.

Vessels and goods seized how to be dealt with.

CC. Every vessel, and all goods seized on the ground that they are liable to confiscation, shall, as soon as conveniently may be, be delivered into the care of the Officer appointed to receive the same. If there be no such Officer at hand, all goods so seized shall be carried to and deposited at the Custom House nearest to

the place of seizure. If there be no Custom House within a convenient distance, such goods shall be deposited at the nearest Office appointed by the Chief Customs Authority of the Presidency or place for the deposit of goods so seized.

Persons detained to be taken to nearest Magistrate or Officer of Custom House.

CCI. Every person detained on the ground that he has been guilty of an offence under this or any other Act relating to the Customs, shall forthwith be taken before the nearest Magistrate or Officer in charge of a Custom House.

Persons taken before a Justice for offence under Customs Acts may be detained or admitted to bail.

CCII. When any person, detained on the ground that he has been guilty of an offence against this or any other Act relating to the Customs, shall be taken before a Magistrate such Magistrate may, if he see reasonable cause, order such person to be detained in gaol or in the custody of the Police for such time as shall be necessary to enable such Magistrate to communicate with the Officers of Customs. Provided that any person so detained shall be liberated on giving recognizance or security to the satisfaction of the Magistrate to appear at such time and place as shall be appointed by such Magistrate for his appearance.

Any person escaping may be afterwards detained.

CCIII. If any person liable to be detained under this or any other Act relating to the Customs, shall not be detained at the time of committing the offence for which he is so liable, or shall, after detention, make his escape, such person shall at any time afterwards be liable to be detained and taken before a Magistrate, to be dealt with as if he had been detained at the time of committing such offence.

Persons in Her Majesty's Navy when detained to be secured on Board until warrant procured.

CCIV. When any person employed on the crew of any of Her Majesty's ships, shall be detained under this or any other Act relating to the Customs, the detaining Officer shall forthwith give notice thereof to the Commanding Officer of the ship, who shall thereupon place such person in security on board of such ship, until the detaining Officer shall have obtained a warrant from a Magistrate for bringing up such person to be dealt with according to law. A Magistrate shall duly grant a warrant upon complaint made to him by the detaining Officer, stating the offence for which the person is detained.

CCV. When any vessel or goods shall be seized or any person shall be detained under this or any other Act relating to the Customs, it shall be the duty of the Officer or other person making such seizure or detention, on demand of the person in charge of the vessel or goods so seized, or of the person so detained, to give to such person a statement in writing of the reason for such seizure or detention.

When seizure is made, seizing Officer to give reason in writing.

CCVI. When any goods liable to confiscation under this or any other Act relating to the Customs, shall be seized by any Police Officer on suspicion that they had been stolen, it shall be lawful for such Officer to carry such goods to any Police Station or Court at which a complaint or information connected with the stealing or receiving of such goods, shall have been made, or enquiry connected with such stealing or receiving shall be in progress, and there to detain such goods until the dismissal of such complaint or information, or the conclusion of such enquiry or of any trial thence resulting. In every such case the Police Officer who seized the goods shall send written notice of their seizure and detention to the nearest Custom House; and immediately after the dismissal of the complaint or information, or the conclusion of the enquiry or trial, the said Police Officer shall cause such goods to be conveyed to and deposited at the nearest Custom House, to be there proceeded against according to law. If any Police Officer, whose duty it is, under this Section, to send a written notice or cause goods to be conveyed to a Custom House, shall neglect so to do, such Officer shall be liable to a penalty not exceeding one hundred Rupees.

Procedure in respect of goods seized on suspicion.

Penalty for neglect of Police Officer to give notice.

CCVII. Any duly empowered Officer of Customs or other person duly employed for the prevention of smuggling, may search any cart, or other means of conveyance, for smuggled goods provided that such Officer shall have reasonable ground to suppose that smuggled goods are contained therein.

Officer of Customs may stop carts, &c., and search for goods on reasonable suspicion.

CCVIII. It shall be lawful for the Magistrate of a District, or Division of a District, on application by an Officer in charge of a Custom House, stating

Magistrate of District may issue search warrant on application.

his belief that dutiable or prohibited goods are secreted in any place in such District or Division, to issue a warrant to search for such goods. Such warrant shall be executed in the same way, and shall have the same effect, as a search warrant issued under the Code of Criminal Procedure.

Persons may be searched on reasonable suspicion.

CCIX. Any Officer of Customs duly employed in the prevention of smuggling may search any person on board of any vessel or boat in any Port in British India, or any person who shall have landed from any vessel or boat. Provided that such Officer shall have reasonable ground to suppose that such person has dutiable or prohibited goods secreted about his person. If any person on board of any such vessel or boat, or who may have landed from any such vessel or boat, shall, upon being asked by any such Officer whether he has dutiable or prohibited goods about his person or in his possession, affirm that he has not, and if any such goods shall, after such denial, be discovered to be or to have been upon the person or in the possession of such person, such goods shall be liable to confiscation, and such person shall be liable to a penalty not exceeding three times the value of such goods.

Penalty for possession of smuggled goods.

Persons before search may require to be taken before a Magistrate, &c.

CCX. When any Officer of Customs is about to search any person under the provisions of the last preceding Section, such person may require the said Officer to take him, previous to search, before the nearest Magistrate or Officer in charge of a Custom House. If such requisition be made, the Officer of Customs may detain the person making it until he can bring him before the nearest Magistrate or Officer in charge of a Custom House. The Magistrate or Officer in charge of a Custom House before whom any person shall be so brought, shall, if he see no reasonable ground for search, forthwith discharge such person; but if otherwise, shall direct that the search be made. A female shall not be searched by any but a female.

Penalty for searching persons on insufficient grounds.

CCXI. If any Officer of Customs shall require any person to be searched for dutiable or prohibited goods, without having reasonable ground to believe that he has such goods about his person, such Officer shall be liable to a penalty not exceeding one hundred Rupees.

CCXII. If any Officer of Customs, or other person duly employed for the prevention of smuggling, shall be guilty of a wilful breach of the provisions of this or any other Act relating to the Customs, such Officer or person shall on conviction before a Magistrate be liable to simple imprisonment for a term not exceeding two years, or to fine, or to both.

Customs Officers, if guilty of breach of duty, how punishable.

CCXIII. If any Officer of Customs or other person duly employed for the prevention of smuggling, shall practise or attempt to practise any fraud for the purpose of injuring the Customs Revenue, or shall abet or connive at any such fraud or any attempt to practise any such fraud, such Officer or other person shall, on conviction before a Magistrate, be liable to imprisonment of either description for any term not exceeding two years, or to fine, or to both.

Customs Officers committing, or conniving at frauds, how punishable.

CCXIV. No suit, action, or other proceeding shall be commenced against any person for any thing done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit, action, or other proceeding, and of the cause thereof, nor after the expiration of three months from the accrual of the cause of suit, action, or other proceeding.

No suit or proceeding to be commenced without notice or after stated interval.

CCXV. Whoever intentionally obstructs any Officer of Customs or other person duly employed for the prevention of smuggling in the exercise of any powers given under this Act to such Officer or person, shall on conviction before a Magistrate be liable to imprisonment of either description for any term not exceeding six months, or to a fine not exceeding one thousand Rupees, or to both.

Punishment for obstruction to Customs Officers.

CCXVI. If any person shall knowingly make or sign any declaration or document used in the transaction of any business relating to the Customs, such declaration or document being false in any particular; or if any person shall counterfeit, falsify, or fraudulently alter or destroy any such document, or any seal, signature, initials, or other mark made or impressed by any Officer of Customs in the transaction of any business relating to

Penalty for making false declaration, refusing to answer questions, &c.

the Customs; or if any person required under this or any other Act relating to the Customs to produce any document shall refuse or neglect to produce such document; or if any person required under this or any other Act relating to the Customs to answer any question put to him by an Officer of Customs shall not truly answer such question, such person shall, on conviction of any such offence before a Magistrate, be liable to a penalty not exceeding one thousand Rupees.

Penalty for un-authorized declaration to value of goods.

CCXVII. Any person subscribing or attesting any declaration of the value of any goods upon an application to pass such goods through the Custom House, shall, if he be not the importer, owner, or consignee of such goods, or have not proper and sufficient authority from the importer, owner, or consignee be liable in every such case to a penalty not exceeding one thousand Rupees.

Officer in charge of Custom House may adjudge confiscations and penalties.

CCXVIII. In every case in which, under this Act, any vessel, cart, or other means of conveyance, or any horse or other animal is liable to confiscation; or any goods are liable to confiscation or to increased rates of Duty; or any person in charge of or owning a vessel, or landing or shipping goods, or passing them through the Custom House, is liable to a penalty, an Officer in charge of a Custom House may, unless it be otherwise provided in this or any other Act relating to the Customs, adjudge such confiscation, penalty, or increased rates of Duty.

Local Government may confer like powers on other Officers of Customs.

CCXIX. In respect of cases cognizable under the last preceding Section by an Officer in charge of a Custom House, the Local Government may empower any Officer of Customs in like manner to adjudge any confiscation, penalty, or increased rates of Duty. Provided that the power to adjudge confiscation shall not extend, as regards a Deputy Collector, to goods of a greater value than one thousand Rupees, nor as regards an Assistant Collector, or other subordinate Officer, to goods of a greater value than one hundred Rupees; and that the power to adjudge a penalty shall not extend, as regards a Deputy Collector, to a sum exceeding fifty

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Rupees, nor as regards an Assistant Collector, or other subordinate Officer, to a sum exceeding ten Rupees.

Appeal from subordinate to Chief Customs Authority.

CCXX. In any case adjudicated by an Officer of Customs, any party aggrieved by the award may appeal to the Chief Customs Authority of the Presidency or place, or to any superior Officer of Customs empowered in that behalf by the Local Government. It shall thereupon be lawful for such authority or superior Officer to make such further enquiry, and to pass such order as he shall think proper, confirming, altering or annulling the original award. Provided that no such order in appeal shall have the effect of subjecting any person to any greater confiscation, penalty, or rates of Duty than shall have been adjudged against him in the original award.

Penalty under this Act not to interfere with punishment which may be inflicted under any other law.

CCXXI. The award of any confiscation, penalty, or increased rates of Duty under this Act by an Officer of Customs shall not interfere with any punishment to which the person affected thereby shall be liable under any other law.

Offences not specially provided for how to be adjudicated.

CCXXII. All offences against this Act, other than those cognizable under Section CCXVIII. of this Act by an Officer in charge of a Custom House, may be adjudicated in a summary manner by a Magistrate.

Penalty adjudged by Magistrate, &c., may be remitted or commuted by Chief Customs Authority.

CCXXIII. If, upon consideration of the circumstances under which any penalty or confiscation has been adjudged under this Act, by an Officer of Customs or by a Magistrate, the Chief Customs Authority of the Presidency or place shall be of opinion that such penalty or confiscation ought to be remitted in whole or in part, or commuted, such Chief Customs Authority may remit the same or any portion thereof, or may commute any order of confiscation to a penalty not exceeding the value of the goods ordered to be confiscated.

How payment of penalty to be enforced.

CCXXIV. When a penalty is adjudged against any person under this Act by any Officer of Customs, it shall be lawful for such Officer, if the penalty be not paid, to levy the same by sale of any goods of the said person which may be in his charge, or in the charge of

any other Officer of Customs. When an Officer of Customs, who has adjudged a penalty against any person under this Act, shall fail to realize the unpaid amount of such penalty from the goods of such person, it shall be lawful for such Officer to notify in writing to any Magistrate within whose jurisdiction such person or any goods belonging to such person shall be, the name and residence of the said person and the amount of penalty unrecovered; and such Magistrate shall thereupon proceed to enforce payment of the said amount in like manner as if the penalty had been adjudged by himself.

Periods of imprisonment in default of payment of penalty or fine to be fixed within certain limits.

CCXXV. When a penalty or fine is adjudged against any person under this Act by a Magistrate, such Magistrate shall, at the same time, fix, within the following limits, a period of imprisonment in default of payment of such penalty or fine:—

If the penalty or fine do not exceed fifty Rupees, the term of imprisonment to be fixed in default of payment shall not exceed one month.

If the penalty or fine do not exceed one hundred Rupees, the term of imprisonment to be fixed in default of payment shall not exceed two months.

If the penalty or fine do not exceed five hundred Rupees, the term of imprisonment to be fixed in default of payment shall not exceed four months.

When the penalty or fine exceeds five hundred Rupees, the term of imprisonment to be fixed in default of payment may extend to six months.

It shall be lawful for the Magistrate at any time to enforce payment of any penalty or fine, or of any portion thereof, by distress and sale of the goods of the defaulter.

Imprisonment to terminate upon payment of the fine.

CCXXVI. The imprisonment which is imposed in default of payment of fine or penalty under this or any other Act relating to the Customs, shall terminate whenever that fine or penalty is either paid or levied by process of law.

Or upon payment of proportional part of fine.

CCXXVII. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine or penalty be paid or levied that the term of imprisonment suffered

in default of payment is not less than proportional to the part of the fine or penalty still unpaid, the imprisonment shall terminate.

On confiscation of vessel or goods, property to vest in Her Majesty.

CCXXVIII. When the confiscation of any vessel, cart, or other means of conveyance, horse or other animal, or any goods shall be adjudged under Section CCXVIII. or Section CCXIX. of this Act, the property in such vessel, means of conveyance, animal, or goods shall thereupon vest in Her Majesty. It shall be the duty of the Officer adjudging confiscation to take and hold possession of the same, and it shall be the duty of every Officer of Police, on the requisition of such Officer, to assist him in taking and holding such possession.

Appropriation of penalties, &c., and grant of rewards.

CCXXIX. The proceeds of all confiscations and penalties imposed under this Act shall, after deducting therefrom all Government demands, be paid into a General Fund, out of which it shall be lawful for the Chief Customs Authority of the Presidency or place, to grant a reward to any person by whose information, assistance, or instrumentality, any seizure shall have been made or any offence punished.

Commencement of Act.

CCXXX. This Act shall come into operation on the 1st day of May, 1863.

A.

FORM OF APPLICATION FOR A LICENSE FOR PRIVATE WAREHOUSE.

(See Section LXXIV.)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE

AT

Sir,

Please to comply with my request to be furnished with a license under Act VI. of 1863

for a warehouse situated at and

about the distance of

from the Custom House. The dimensions and other particulars

of the godown are stated below. It is intended for the reception of all goods, as a general store-house—(*or as the case may be.*—The period of license not to exceed—*mention the time for which required*).

Particulars of Godown.

	Feet—Inches	
Length		Dry, airy, well flued and puckah built; can contain with perfect safety and convenience tons of goods (*as the case may be*).
Breadth		
Height		

This godown is my own property—(*or the property of ,—from whom I have engaged the same on a lease of*)

(*Signed*) ( )

Name of Applicant.

Place
Date

B.

FORM OF APPLICATION TO WAREHOUSE GOODS.

(*See Section LXXV.*)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE

AT

Sir,

Please to order the reception into the public warehouse (*or the private warehouse,*—of Mr. A. B., situate at and licensed by No. dated) of the undermentioned goods, arrived from—(*Port or place to be mentioned*)—on the—(*British or other*)—ship whereof is Commander.

The Duty upon these goods has been adjusted in the manner specified below :—

Marks and numbers of packages.	Description of Packages and goods.	Details of goods.	Rate of value of goods.	Amount of value of the goods as ascertained and entered on the landing of the same.	Rate of Customs Duty.	Date and No: of importation.	Specification of the particulars of bonds if the Duty upon goods has been bonded.
1.	2.	3.	4.	5.	6.	7.	8.

(*Signed*) ( )

Name of Owner, Agent, or Consignee of Goods.

Place

Date

C.

FORM OF BOND FOR IMPORT DUTY.

(*See Section LXXVII. and LXXVIII.*)

BOND.

No. 18

We, A. B.,

now of

; and C. D.,

of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in the sum of Government Rupees

to be paid the said Secretary of State, for which payment we jointly and severally bind ourselves, our heirs, and representatives; and we agree that, in case of dispute touching the matter of this obligation or the condition thereof, the same may be heard and determined in the High Court of Judicature at

Sealed with our seals (*date*)

(*Signed*)

The above bounden having applied to the Officer in charge of the Custom House at for and obtained permission to lodge in the warehouse for a period of the following goods, that is to say— imported by Sea from on board of the ship and entered in the Custom House Books as No. of the Register of Goods Imported by Sea:

The condition of this Bond is, that;

If the their heirs, or representatives, shall observe all the rules prescribed in Act No. VI. of 1863 to be observed by owners, importers or consignees of goods warehoused, and by persons obtaining permission to warehouse goods under the provisions thereof

And if the said their heirs, or representatives, shall pay to the Officer in charge of the Custom House at the

Port of all dues, whether of Customs, warehouse dues, or lawful charges which shall be demandable on the said goods, or on account of penalties incurred in respect to them within from the date of this Bond, or within such further time as the Chief Customs Authority of shall allow in that behalf, together with interest on every such sum at the rate of six per cent. per annum from the date of demand thereof being made in writing by the said Officer in charge of the Custom House;

And if, within the term so fixed or enlarged, the said goods or any portion thereof having been removed from the said warehouse for home consumption or re-exportation by Sea, the full amount of all Customs Duties, warehouse dues, lawful charges and penalties demandable as aforesaid shall have been first paid on the whole of the said goods;

This obligation shall be void.

Otherwise, and on breach or failure in the performance of any part of this condition, the same shall be in full force.

Sealed with our seals (*date*)

(*Signed*) ( )

D.

FORM OF APPLICATION TO REMOVE GOODS FROM WAREHOUSE.

(*See Section XCIX.*)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

Sir,

Please to order to be passed from the public warehouse (*or private warehouse,*—of Messrs. A. & Co., situate at and licensed under Act VI. of 1863 by No. dated) the undermentioned goods intended for exportation by Sea on the ship

whereof is Commander, and which is bound to—(*or for internal consumption*)—the same having been entered in the books of your Office for the said warehouse, under No. dated by me—(*or by Messrs. B. & Co.—in the latter case add*—whose certificate of the transfer of the goods is herewith annexed).

Marks and No. of cases B. and Co.
(*Name of the goods*).
No 1 to 4.
□ × ✓
Sealed.
Warehoused for exportation.

Four cases of—(*name of goods*)—1 case,—(*box, bale, or parcel*) — containing—(*here insert the quantity in each case.*)—
1 Ditto.
1 Ditto.
1 Ditto.
Four cases,—(*boxes, bales, or parcels*)—containing—(*total contents to be here stated.*)

The Custom House value of the above is Government Rupees.

(*Signed*) ( )

Name of Owner, Agent, or Consignee of goods.

Place

Date

E.

FORM OF APPLICATION TO REMOVE GOODS FROM ONE WAREHOUSE TO ANOTHER.

(*See Section CV.*)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE

AT

Sir

Please to permit the removal of the undermentioned goods from the public—(*or private*)—warehouse—(*describe the warehouse*)—to—(*the warehouse into which the removal is intended to be made must here be distinctly described*)—for the unexpired period of warehousing remaining in respect to the goods, the same having been originally entered by virtue of Act VI. of 1863 in

the books of the warehousing department, No. dated for fifteen months—(*or such other period as may have been allowed*)—under the obligations and conditions at present attached to the goods:

Marks and numbers of packages.	Description of packages and of goods.	Contents of packages.	Rate of value of goods.	Amount of value of goods as entered in Custom House books.	Rate of Duty chargeable or paid upon the goods.	Name of the persons by whom goods first passed into warehouse.
1.	2.	3.	4.	5.	6	7.

NOTE.—*If the goods to be removed shall have been sold or transferred by the original proprietor or agent, a certificate of such sale or transfer shall accompany the application.*

(*Signed*) ( )

Name of Owner, Agent, or Consignee of goods.

Place

Date

F.

FORM OF SHIPPING BILL.—*(See Section CXXIII.)*

Shipping Bill.

1. Warehouse or drawback goods.
2. Foreign goods not for drawback.
3. Goods exported under special rule of restriction.
4. Country goods subject to Duty.
5. Country goods not subject to Duty.

State as described the class to which the goods to be exported belong.

Ship's name.	Whether British or Foreign; if Foreign, the Country.	Master's name.	Port or place of destination.	Marks.	Numbers.	Description of Packages.	Quantity. Quality, and Description of goods.	Rate of value for duty.	Total value for duty.	Declared real value under Section XXVI.	Remarks.
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.

☞ *Here state particulars according to the above headings.*

I claim drawback on

Here state quantity and description in words, at length, of any goods in respect of which drawback is claimed, and number in register of Custom House.

I declare the value of the goods above described to be

( )

Name of Exporter or Agent.

Dated *day of*

( )

Name of Officer in charge of Custom House.

G.

FORM OF COASTING PASS.—(*See Section CLIV.*)

Port of

Ship's name.	Tonnage.	Port of Registry.	Master's Name.	Whither bound.	Foreign goods, duty paid.	Warehoused goods removed in bond.	Country Goods.	Restricted goods and goods liable to duty of excise.
1.	2.	3.	4.	5.	6.	7.	8.	9.

☞ *Here state the particulars according to the above Headings.*

Cleared *day of* 18

Signed ( ) *Officer in charge of Custom House.*

Signed ( ) *Name of Master.*

H.

FORM OF BOND FOR THE REMOVAL OF SPIRITS FROM LICENSED DISTILLERY.

(*See Section CLXIII.*)

We,

are jointly and severally bound to Her Majesty's Secretary of State for India, in the sum of Government Rupees to be paid to the said Secretary of State, for which payment we jointly and severally bind ourselves, our heirs, and representatives; and we agree that in case of dispute touching the matter of this obligation, or the condition thereof, the same may be heard and determined in the High Court of Judicature at

Sealed with our seals, dated this day of 18

(*Signed*) ( )

The above bounden being indebted to Her Majesty's Secretary of State for India in the sum of Government Rupees being the amount of Duty payable at the rate of Rupees per Imperial gallon London proof, for gallons of *or for gallons of proof spirit used in the preparation of dozens of bottles or gallons of cordials and liquors as specified in the annexed Schedule*) manufactured at which the said have been allowed to remove thence for exportation by Sea, subject to the provisions of Act VI. of 1863, without having paid such Duty..

The condition of this obligation is, that, if the above bounden their heirs, or representatives, shall, at the expiration of four calendar months from the date of this obligation, pay or cause to be paid to the said Secretary of State, Duty at the rate of Rupee per Imperial gallon of proof spirits for all or any portion of the above-mentioned, which shall not have been then exported by Sea, subject to the aforesaid provisions (of which exportation, if any, due proof shall be given) or passed for local consumption on payment

of Duty, then this Bond shall be void; otherwise the same shall remain in full force.

Sealed and delivered in the presence of

Place

Date

If the bond be for cordials and other liquors under Section CLXX., add

Schedule.

Description of cordials and liquors.	Quantity in bottles or gallons.	Quantity of proof spirit.
1.	2.	3.

EMIGRATION TO ST. CROIX.

ACT No. VII. OF 1863.

[*Received the assent of the G. G. on the 4th Feb.*, 1863.

Recites expediency of extending Act XXXI., 1855, to emigration to St. Croix.

1. Repeals Act XIV., 1839, so far as it applies to emigration to St. Croix from Presidency ports.

2. Extends Act XXXI., 1855; and Act XLIV., 1860, to emigration to St. Croix.

3. Act to take effect from date of notification in the Gazette.

4. Extends Act XIX., 1856, to emigration to St. Croix.

An Act relating to the Emigration of Native Laborers to the Danish Colony of St. Croix.

Repealed by Act XIII., 1864.

CONVICTS OF COURTS IN NATIVE STATES.

ACT No. VIII. OF 1863.

[*Received the assent of the G. G. on the 23rd Feb.*, 1863.

Recites expediency of amending the law relating to the confinement of prisoners tried by British Courts in Native States, and to make provision for safe custody of prisoners convicted of suttee and sumadh in Native States.

1. Repeals Bombay Reg. IX., 1833; Act XVIII., 1843; and Act V., 1847.

2, 3. Empowers officers in charge of gaols to give effect to sentences passed by courts in non-regulation ports; (3) under warrant from such courts but not to apply to aols in Presidency towns.

4. Authorizes the execution in British territory of prisoners convicted in Native States, &c., of offence of thuggee, dacoity, &c., suttee, sumadh, or other offences specified in proclamation, &c.

5. Officer in charge of gaol, if in doubt as to legality of warrant, may refer the matter to Government.

6. General prison regulations to apply to prisoners under this Act.

An Act for the amendment of the law relating to the confinement of prisoners sentenced by Courts acting under the authority of Her Majesty, and by certain other Courts, and of prisoners convicted of offences in Native States.

Preamble.

Whereas it is desirable to amend the law relating to the confinement of prisoners who have been sentenced by Courts acting under the authority of Her Majesty, or of the Government of India, or of any Local Government; and whereas it is expedient to make the same provision for the secure custody of persons convicted of participation in the offence of Suttee (burning alive) or Sumadh (burying alive) and of such other offences as the Governor General in Council shall from time to time, by an order to be published in the Government Gazette, think fit to prescribe, within the Territories of Native Princes or States in alliance with Her Majesty as is already made in regard to persons convicted of Thuggee or Dacoity in such States, it is enacted as follows:

Repeal of Regulation and Acts.

I. Regulation IX., of 1833, of the Bombay Code (*to provide for the reception in the Gaols under that Presidency of prisoners sentenced by Courts of justice or Tribunals acting under British Superintendence other than those provided for in the existing Regulations*), Act XVIII., of 1843 (*for the better custody of*

persons convicted of Thuggee and Dacoity), and Act V., *of* 1847 (*to facilitate the execution of the sentences of Courts established by the authority of the Governor General in Council for the administration of Criminal Justice in States in Territories administered by Officers acting under the authority of the East India Company*), are hereby repealed.

Officers in charge of Gaols may give effect to sentences passed by certain Courts.

II. Officers in charge of Gaols within the British Territories in India shall be competent to give effect to any sentence which shall be passed by any Court or Tribunal acting under the authority of Her Majesty, or of the Government of India, or of any Local Government, although such Court be not situate in a place not subject to the general Regulations. Provided that this Section shall not apply to any Officer in charge of any Gaol or House of Correction within the local limits of the ordinary original Civil Jurisdiction of any Court established by Royal Charter.

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Warrant of Officer of such Court to be sufficient authority.

III. A warrant under the official signature of an Officer of the Court or Tribunal as aforesaid shall be sufficient authority for holding any prisoner in confinement, or for transmitting any prisoner for transportation beyond sea, in pursuance of the sentence passed upon him.

Executive Government may authorize reception, detention, or imprisonment in British India of persons convicted of certain offences in Native States.

IV. It shall be lawful for the Executive Government of any part of the British Territories in India to authorize the reception, detention, or imprisonment in any part of those Territories, for the periods specified in their respective sentences, of persons sentenced within the Territories of any Native Prince or State in alliance with Her Majesty to imprisonment or transportation for the offence of Thuggee or Dacoity, or the offence of belonging to any gang of Thugs or Dacoits, or for participation in the offence of Suttee or Sumadh, or for such other offences as the Governor General in Council shall from time to time, by an order published in the Government Gazette, think fit to prescribe. Provided always that such sentences shall have been pronounced after trial before a Tribunal in which an Officer of Government, duly authorized in

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that behalf by such Prince or State, shall be one of the presiding Judges. Every Officer of Government so authorized as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment or transportation may be carried into effect.

Procedure of Officer in charge of Gaol if he doubt the legality of any warrant sent to him for execution.

V. If any Officer in charge of a Gaol shall entertain any doubt as to the legality of any warrant sent to him for execution under this Act, or as to the competency of the person or persons whose official seal and signature may be affixed thereto to pass the sentence and issue such warrant, such Officer shall refer the matter to the Government to which he is subject, by whose order on the case such Officer and all other public Officers shall be guided as to the future disposal of the prisoner. Pending any such reference, the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant.

Provisions of existing Acts, &c., relating to the treatment and security of prisoners generally, to apply to prisoners confined under this Act.

VI. The provisions of the existing Acts and Regulations, and all other rules in force for the treatment and security of prisoners confined in the said Gaols, shall apply and be of equal force and effect in the case of prisoners confined therein under this Act as in the case of other prisoners confined therein.

CODE OF CIVIL PROCEDURE.

ACT No. IX. OF 1863.

[*Received the assent of the G. G. on the 23rd Feb.*, 1863.

Recites the necessity of amending Act VIII., 1859, Section 386.

1, 2. Vests in one Judge the powers vested in two by this Section, when the highest Court in non-regulation parts, consists of only one Judge; and (2) gives validity to acts of one Judge in such cases before Act passed.

An Act to amend the Code of Civil Procedure.

Preamble.

Whereas the Code of Civil Procedure requires that appeals from decisions or orders to the Sudder Court shall ordinarily be heard and determined by

two or more Judges of the said Court; and whereas in the Territories, not subject to the general Regulations, the highest Civil Courts of Appeal, which are declared by Section 386 of Act VIII. of 1859, to be included in the expression "Sudder Court" in any part of the said Territories to which the said Code may be extended, generally consist of only a single Judge, and it is expedient to make provision for the powers to be exercised by such single Judge in hearing appeals from decisions and orders, or in proceedings relating to any other matter which may be brought before him, it is enacted as follows:

In certain places the highest Civil Court of Appeal to have powers of Sudder Court.

I. When in any part of the British Territories in India to which the Code of Civil Procedure has been or shall be extended under the provisions of Section 385 of the said Code, the highest Civil Court of Appeal consists of a single Judge, such Judge shall have all the powers vested by such Code in two or more Judges of the Sudder Court.

No order or proceeding of such Court to be void because passed or held by a single Judge.

II. No order passed by or proceeding held before the single Judge of any such highest Civil Court of Appeal, subsequent to the extension of the Code of Civil Procedure to such part of the British Territories in India, shall be deemed invalid, or be liable to be questioned on the ground that such order or proceeding was passed by or held before a single Judge.

DARJEELING.—ADMINISTRATION OF JUSTICE.

ACT No. X. OF 1863.

[*Received the assent of the G. G. on the 23rd Feb.*, 1863.

Recites expediency of improving administration of justice in Darjeeling.

1—6. Gives the Superintendent, &c., same immunity from appeal as Small Cause Courts under Act XLII., 1860; but new trial may be granted, &c.; and (2) authorizes them to state case on certain points for opinion of High Court; (4) to be decided by two Judges; (5) at an early day; (6) at the hearing parties may appear; (3) but Court may proceed nevertheless with suit, but execution not to issue.

7, 8. High Court to transmit copy of its judgment, &c., to the Superintendent, &c., who shall proceed according to the judgment; and (8) High Court costs to be costs in the suit.

9—11. Gives a regular appeal in suits not exceeding 5,000 Rs., to the Judge of Dinagepore; and (10) a special appeal from him to the High Court in specified cases; and (11) a regular appeal to High Court in suits exceeding 5,000 Rs.

12—14. Commitments for Court of Sessions to be made to Sessions Judge of Dinagepore; and (13) criminal appeals from Darjeeling Judge to Judge of Dinagepore; and (14) High Court to have same jurisdiction over his proceedings as in other cases.

An Act to improve the administration of Justice in the District of Darjeeling.

Repealed by Act XIX., 1867.

NORTH-WESTERN PROVINCES.—PROCESS-SERVING PEONS.

ACT NO. XI. OF 1863.

[*Received the assent of the G. G. on the 25th Feb.*, 1863.

Recites expediency of consolidating the law relating to the remuneration and employment of Court peons.

1. Repeals as to the North-Western Provinces Bengal Reg. XXVI., 1814, Section 14; Reg. VII., 1832, Section 5.

2—6. Subject to the approval of the Sudder Court the Zillah Judges are to fix the number of peons for their Courts, and the subordinate Courts, and Small Cause Court Judges to do the same for their Courts; and (3) the Nazir to appoint them; and (4) none but such peons to be employed except by leave of the Court; and (5) Court peons to be distinguished by plate and bolt; and (6) to be remunerated either by salaries or fees to be fixed by Government.

7. Salaries for peons to be paid out of the fee fund, and surplus applied to the improvement of the administration of justice, &c.

8. Directs an account to be kept, and returns made, of fee fund.

9. All process under this Act to be deemed process within Act VIII., 1859, Section 188, and Act XXIII., 1861, Section 2.

10. Authorizes the Sudder Court to make rules for fixing costs of service and process, &c.

11. Empowers the G. G. in C. and Lieut.-Governor of Punjab to extend this Act to any territories under their respective Governments.

12, 13. Interprets the term "Judge;" and (13) the term "Sudder Court."

An Act to consolidate and amend the law relating to the employment and remuneration of Peons for the service and execution of Civil Process.

Preamble

Whereas it is expedient to consolidate and amend the law relating to the employment and remuneration of Peons for the service and execution of Civil Process in the Courts of the North-Western Provinces of the Presidency of Fort William in Bengal and in other parts of the British Territories in India, to which this Act shall be extended as hereinafter provided, it is enacted as follows:

Laws repealed.

I. From and after the passing of this Act, Section XIV. of Regulation XXVI., 1814, of the Bengal Code (*for modifying some of the Rules at present in force regarding the admission and trial of special and summary appeals from decisions passed in regular suits; for limiting and altering some of the existing provisions respecting the pleadings and processes, and the mode of executing decrees and regular suits and appeals; and for explaining and making certain additions to the provisions of Regulation I.*, 1814), Section V. of Regulation VII., 1832, of the said Code (*for modifying certain of the provisions of Regulation V.*, 1831, *and for providing supplementary Rules to that enactment*), and Act XIV. of 1845 (*to provide for the appointment of Nazirs in the Moonsiffs' Courts*), shall cease to have effect in the North-Western Provinces of the Presidency of Fort William in Bengal.

Number of Peons for each Court by whom to be fixed.

II. Subject to the approval of the Sudder Court the Judges of the several Zillah Courts in the said North-Western Provinces shall fix the number of Peons necessary to be employed in the said Zillah Courts and in the several Courts subordinate to them for the service and execution of processes issued out of such Courts respectively, and the Judges of the Courts of Small Causes in the said Provinces shall in like manner fix the number of Peons necessary to be employed in the said Small Cause Courts for the service and execution of processes issued out of such Courts. Subject to the like approval the said Judges may from time to time alter the number of Peons to be so employed.

Appointment and registration of Peons.

III. The appointment of Peons in the several Courts mentioned in the last preceding Section shall be made, subject to the approval of the Judge of the Court, by the Nazir of the Court in which the Peons are

employed, or by the Clerk of the Court where there is such an Officer; and every such appointment shall be registered in the Court with the following particulars: the name of the Peon, his age, his place of abode, his father's name, and date of appointment.

No other persons to be employed as Peons without special leave of Court.

IV. No person who shall not be appointed and registered as a Peon in the manner hereinbefore provided shall be employed in the service or execution of the process of any Court without the special leave of such Court.

Peons to be furnished with belt and plate.

V. The Peons who are appointed and registered in the manner above prescribed, shall be furnished at the expense of the State with a uniform belt and plate, on which shall be inscribed the Court to which the Peon belongs and the number of the Peon in the Register.

Remuneration of Peons.

VI. The Peons appointed and registered under this Act shall either receive fixed salaries, or be remunerated by fees for the service of the processes served or executed by them, as the Local Government shall direct. The amount of salary shall be fixed by the Local Government.

Disposal of sums paid under Act for execution of process.

VII. When the Peons appointed under this Act are remunerated by a fixed salary, the money paid under this Act for the service or execution of processes shall be carried to the credit of Government, and shall be formed into a fund out of which the salaries of such Peons shall be paid. Any surplus that may accrue from such fund, after paying the salaries of the Peons, shall be at the disposal of the Local Government, and may be applied by such Government, subject to the approval of the Governor General in Council, to the improvement of the administration of Civil Justice in the North-Western Provinces.

Account of moneys received into and paid out of Court.

VIII. A regular account of all moneys received into and paid out of Court under this Act shall be kept, and extracts from this account shall be forwarded to the Local Government at such times, and in such form as such Government shall direct.

Construction of process.

IX. Every process served or executed under this Act shall be held to be a process within the meaning of Section 188 of the Code of Civil Procedure,

and Section 2 of Act XXIII. of 1861 (*to amend Act VIII. of 1859 for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.*)

Sudder Court to make rules for fixing cost of serving process, remuneration of Peons, &c.

X. The Sudder Court shall make rules prescribing the cost of serving and executing processes issued by the said Court, and by the Courts subordinate to such Court, as well as by the Courts of Small Causes, established within the local limits of the jurisdiction of such Sudder Court, and for levying the same, and also rules for the remuneration of the Peons appointed and registered under this Act who are not paid by fixed salaries, and of all other persons who may be employed in the service or execution of processes by leave of a Court under the 4th Section of this Act, and also such other rules as the Sudder Court shall deem necessary, and shall not be inconsistent with the provisions of this Act for carrying out the provisions of this Act. The rules made under this Section, after being confirmed by the Local Government, shall have the force of law. Subject to the same confirmation the Sudder Court may from time to time vary the rules made under the authority of this Section. The rules made and confirmed under this Section, and a table of costs for serving and executing processes, shall be exposed to public view in every Court for which Peons are appointed and registered under this Act.

Powers of Governor General and of Lieutenant Governor, Punjab, to extend Act.

XI. The Governor General of India in Council shall have power, by an order to be published in the "Calcutta Gazette," to extend the provisions of this Act to any part of the Territories, under the immediate administration of the Governor General in Council; and the Lieutenant-Governor of the Punjab shall have power by an order to be published in the Official Gazette, to extend the provisions of this Act to any part of the Territory under his Government.

Interpretation of "Judge."

XII. The term "Judge" in this Act shall denote the Presiding Judicial Officer in every Court of Civil Judicature by whatever title he shall be designated. And in any place not subject to the General Regulations to which the provisions of this Act extend, or shall hereafter be extended, as provided in the last

preceding Section, the Judges of the Principal Courts of original Civil Jurisdiction in such place shall be the Judges to fix the number of Peons necessary to be employed in such Courts, and in any Courts subordinate to such Courts, as provided in Section II. of this Act, and subject to the approval therein mentioned.

Interpretation of "Sudder Court" in places to which Act shall be extended.

XIII. When this Act shall be extended to any place under Section XI. of this Act the term "Sudder Court," as used in this Act, shall be taken to mean the highest Civil Court of Appeal established in the place to which this Act shall be so extended.

MAHOBA AND JEITPORE, IN HUMEERPORE, BUNDLEKUND.

ACT No. XII. OF 1863.

[*Received the assent of the G. G. on the 25th Feb.*, 1863.

Recites expediency of bringing Mahoba and Jeitpore under the same Regulations as the rest of the District.

1—5. Places those Pergunnahs under the same Regulations, &c., as the rest of the District; save (2) as to pending, and (3) remanded proceedings; and (4 and 5) as to pending appeals.

6. Act to take effect from time fixed in Gazette.

An Act to bring the Pergunnahs of Mahoba and Jeitpore, in the District of Humeerpore, under the operation of the General Regulations.

Preamble.

Whereas, the District of Humeerpore, in Bundlekund, is, with the exception of the Pergunnahs of Mahoba and Jeitpore, subject to the General Regulations; and whereas it is expedient that the said Pergunnahs should, for the sake of uniformity and public convenience, be administered on the same system as prevails in the rest of the District, it is enacted as follows:

Laws and Regulations for internal administration of Humeerpore to have full force in Mahoba and Jeitpore, &c.

I. The laws and regulations established for the internal administration of the District of Humeerpore shall have full force and effect in the Pergunnahs of Mahoba and Jeitpore, and the administration of Civil and Criminal Justice,

and the superintendence of the settlement and realization of the public revenue, and of all matters relating to rent in the said Pergunnahs, are hereby vested in the Officers who are, or may hereafter be, appointed by the Lieutenant-Governor of the North-Western Provinces for the said District of Humeerpore.

Saving as to suits pending at the time of passing this Act.

II. All suits and proceedings arising in the said Pergunnahs which, at the time of the passing of this Act, shall be pending in any Court, or before any Officer, shall be heard and determined in the same manner as if the said Pergunnahs had not been brought under the operation of the General Regulations.

Suits remanded by any Appellate Court.

III. Any suit which, before the passing of this Act, had been determined and which has been or shall be remanded by any Appellate Court, shall be tried before the Court which, for the time being, would be competent to try such a suit if instituted after the passing of this Act.

Appeals pending in Jhansie Commissioner's Court, and execution of decrees.

IV. All appeals or proceedings now pending in the Court of the Commissioner of Jhansie shall be determined by such Commissioner in the same manner as if this Act had not been passed; and all applications for execution of decrees or orders which, but for the passing of this Act, would have been made to any Court or Officer existing at the time of the passing of this Act shall be made to the Court or Officer that would have had jurisdiction in respect of the matter in dispute, had the suit or proceeding been instituted after the passing of this Act.

Appeals from decrees or orders passed before passing of Act.

V. All appeals from decrees or orders passed before the passing of this Act shall be received, heard and determined by the Court or Officer who would have had jurisdiction over such appeals, had the decrees or orders to which they relate been passed after the passing of this Act.

Commencement of Act.

VI. This Act shall take effect from such date as the Lieutenant-Governor of the North-Western Provinces shall fix by an order to be published in the Official Gazette.

BOMBAY.—PRISONERS AND HOUSE OF CORRECTION..

ACT No. XIII. OF 1863.

[*Received the assent of the G. G. on the 25th Feb.*, 1863.

Recites the want of sufficient prison room for convicts in Bombay.

1, 2. Authorizes the Judges to sentence to rigorous imprisonment, either in the House of Correction, whether it be under the control of the Sheriff or not, or in the common gaol; also (2) as the place of intermediate custody when sentence is to transportation or penal servitude.

3. Gives the same power to Magistrate on commitments for trial.

An Act to empower Judges of the High Court and other Authorities at Bombay to direct Convicts to be imprisoned either in the House of Correction or the Common Goal.

Preamble.

Whereas great inconvenience is occasioned in the administration of Criminal Justice by reason of the House of Correction in the Town of Bombay not having sufficient accommodation to contain all the prisoners from time to time sentenced to be there confined for divers offences; and it is desirable that the Judges of Her Majesty's High Court at Bombay, and the Justices of the Peace and the Magistrates of Police in the Town and Island of Bombay should be empowered to send prisoners to the Common Gaol in the Town of Bombay, as well as to the House of Correction, it is enacted as follows:

Persons sentenced by High Court to rigorous imprisonment, &c., may be imprisoned in House of Correction or Common Goal in Bombay.

I. Whenever, from and after the passing of this Act, any person shall be sentenced by Her Majesty's High Court of Judicature at Bombay to rigorous imprisonment, or to imprisonment with hard labor or solitary confinement, it shall be lawful for the Judges or Judge of the said Court of Judicature to direct such person to be imprisoned either in the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or in the Common Gaol in Bombay, as to them or him shall seem fit.

Where also persons sentenced by the said Court to transportation, &c., may be kept.

II. Whenever, from and after the passing of this Act, any person shall be sentenced by the High Court at Bombay to transportation, or penal servitude, such person may, at the discretion of the

Judges or Judge of the said Court, be kept in the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or in the Common Gaol in Bombay, as the place of intermediate custody.

III. Whenever, from and after the passing of this Act, any person shall be sentenced by a Justice of the Peace or Magistrate of Police in the Town and Island of Bombay to rigorous imprisonment, or imprisonment with hard labour, the person so sentenced may be committed by such Justice of the Peace or Police Magistrate, either to the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or to the Common Gaol in Bombay, as to such Justice of the Peace or Magistrate shall seem fit.

Where also persons sentenced by a Justice of the Peace or Police Magistrate to rigorous imprisonment, &c., may be committed.

NORTH-WESTERN PROVINCES.—RENT ACT.

ACT No. XIV. OF 1863.

[*Received the assent of the G. G. on the 10th March*, 1863.

Recites expediency of amending Act X., 1859, as respects the North-Western Provinces.

1, 2. Adds to suits specified in Act X., 1859, Sections 23 and 24, suits by certain lumberdars, &c., by certain co-sharers, &c., and by certain maafeedars, &c., and by certain talookdars; and (2) limits the time for bringing such suits.

3. Adds to grounds specified in Act X., 1859, Section 18, other grounds for claiming an abatement of rent.

4. Adds specified words to Act X., 1859, Section 23, Clause 2.

5. Repeals, as to North-Western Provinces, Act X., 1859, Sections 34 and 86, and substitutes new Sections for them, numbered 34 and 86.

6. Applies Act VIII., 1859, Sections 243 and 244, to suits under Act X., 1859, or this Act, in which a Collector awards money to Government.

7. Amends Act X., 1859, Section 112, by adding words of qualification.

8—12. Empowers Government to invest specified settlement officers with the powers of Collector within certain local limits; and (9) defines what matters shall be within his cognizance; and (10) lays down a rule as to suits for enhancement of rent; and (11) as to suits by and against ryots collectively; and (12) gives same appeal against decisions of such officer as against Collectors; and (13) except on the ground of want of jurisdiction in suits entertained by such officers before this Act.

13. Authorizes settlement officers to commute rents paid in kind to money rents on application either of rents-payer or receiver.

14. Extends Act VIII., 1859, Chapter 6 (on Arbitration), to suits under Act X., 1859.

15. Empowers Local Government to appoint proprietor, &c., to be lumberdar for collection of water rate, &c., with commission, and legal powers for enforcement of rate.

16. Persons arrested under Act X., 1859, Section 145, to be brought before Collector with all convenient speed for trial, who may take security, &c.

17. Declares that decisions of Zillah Judges under Act X., 1859, are open to special appeal.

18. This Act to be read as part of Act X., 1859, wherever it is in force.

19. Empowers G. G. in C., the Lieut.-Governor of North-Western Provinces and Punjab to extend this Act to territories under their respective Governments.

An Act to amend Act X. of 1859 (to amend the law relating to the Recovery of Rent in the Presidency of Fort William in Bengal).

Preamble.

Whereas it is expedient to amend Act X. of 1859 (*to amend the law relating to the Recovery of Rent in the Presidency of Fort William in Bengal*), so far as it relates to the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William in Bengal, and to authorize the extension of the Act to places to which its provisions do not now apply, it is enacted as follows:

Suits cognizable by Collectors in addition to those specified in Sections XXIII. and XXIV. of Act X., 1859.

I. In addition to the suits specified in Sections XXIII. and XXIV. of Act X. of 1859, the following suits shall be cognizable by the Collectors of Land Revenue under the provisions of the said Act, and except in the way of appeal as provided in the said Act, shall not be cognizable in any other Court, or by any other Officer, or in any other manner (that is to say)—

1*st*. Suits by Lumberdars for arrears of Government Revenue payable through them by the co-sharers whom they represent.

2*nd*. Suits by co-sharers for their share of the profits of an estate or any part thereof after payment of the Government Revenue and village expenses, or for a settlement of accounts.

3*rd*. Suits by Maafeedars or assignees of Government Revenue for arrears of Revenue owing to them as such Maafeedars or assignees.

4*th*. Suits by Talookdars and other superior proprietors for arrears of Revenue or otherwise (not being rent claimable under Section XXIII. of the said Act X. of 1859) due to them as such Talookdars or other superior proprietors.

II. Suits instituted under the preceding Section shall be instituted within three years from the date when the arrear or the amount of profits claimed shall have become due, or if the suit be for an arrear, or for profits due at the time of the passing of this Act, it shall be instituted within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire. If the suit be for a settlement of accounts, the suit shall be brought within one year after the expiration of the year to which the accounts relate, or in the case of any claim for such settlement now existing, within one year from the time of the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire.

Limitation of suits under preceding Section.

III. In addition to the grounds mentioned in Section XVIII. of the said Act X. of 1859, upon which a ryot, having a right of occupancy, can claim an abatement of the rent previously paid by him, every such ryot may claim abatement on the ground that the rate of rent paid by him is above the prevailing rate payable by the same class of ryots for land of a similar description, and with similar advantages, in the places adjacent.

Additional ground for claim to abatement of rent.

IV. Clause 2, of Section XXIII., of the said Act X., of 1859, shall be read as if the words "or by any other means not warranted by law" were added thereto.

Addition to Clause 2, Section XXIII. of Act X. of 1859.

V. From the date of the passing of this Act, Sections XXXIV. and LXXXVI. of the said Act X. of 1859 shall cease to have effect in the Territories under the Government of the Lieutenant-Governor of the North-

Repeal and re-enactment of Sections XXXIV. and LXXXVI. of Act X. of 1859.

Western Provinces, and shall not come into force in any place to which this Act shall be extended, as hereinafter provided; and the following Sections are enacted in lieu thereof:

"Section XXXIV. Suits under this Act shall be instituted by presenting to the Collector a plaint or statement of claim, which shall contain the name, description and place of abode of the plaintiff; the name, description, and place of abode of the defendant, so far as they can be ascertained; the substance and value of the claim estimated according to any law for the time being in force for the valuation of suits; and the date of the cause of action.

Procedure in the institution of suits under this Act.

"Section LXXXVI. Process of execution may be issued against either the person or the property of a judgment debtor, but process shall not be issued simultaneously against both person and property. Such process may be issued on the oral application of the judgment creditor, his agent, or mookhtar, made at the time the decree is passed, or thereafter upon the written application of the judgment creditor, his agent, or mookhtar. Process of execution against the person or moveable property of a debtor shall be in form E or F contained in the Schedule to the said Act X. of 1859, or to the like effect."

Issue of process of execution.

VI. The provisions of Sections 243 and 244 of the Code of Civil Procedure shall be applicable to decrees passed in suits under the said Act X. of 1859, or this Act, in which the Collector shall award a sum of money on account either of an arrear of Government Revenue, or of profits, or otherwise.

Certain provisions of Civil Procedure Code applicable to decrees in rent suits.

Orders passed by a Collector under either of the said Sections shall be subject to revision by the Commissioner of the Division, and the Sudder Board of Revenue, but shall not be open to appeal to the Civil Court.

Revision of Appeal.

VII. Section CXII. of the said Act X. of 1859, shall be read as if the words "or where the rent of a puttee is not collected by a lumberdar, through the putteedar who is entitled to collect the rent" were added at the end of such Section.

Addition to Section CXII. of Act X. of 1859.

VIII. The Local Government may invest any Officer employed in making or revising settlements of the Land Revenue, with the powers of a Collector as described in the said Act X. of 1859, for the decision of suits arising within the local limits of the jurisdiction assigned to such Officer, of the nature mentioned in Section XXIII. of the said Act, or in this Act while such Officer is so employed.

Local Government may invest Settlement Officers with certain powers.

IX. In the exercise of the powers given under the last preceding Section, the Officer so invested shall have power to determine all disputes existing between Zemindars, Talookdars, or other Sudder Malgoozars, or Farmers of land, or any person duly authorised on their behalf, and any dependent Zemindar, ryot, or other under-tenant of whatever denomination, regarding the rates of rent payable by such dependent Zemindar, under tenant, ryot, or other tenant.

Matters cognizable by such Settlement Officers.

X. If a suit for enhancement of rent be brought before any Officer empowered under Section VIII. of this Act to hear the same, such suit shall be heard and determined by such Officer notwithstanding that no notice of enhancement shall have been served under Section XIII. of the said Act X. of 1859, on the party from whom such enhanced rent is claimed. In such case the statement of claim shall set forth the grounds on which such enhancement of rent is claimed. If a decree be passed in favor of the claimant, such decree shall have effect only from the commencement of the next agricultural year after the date of the decree.

Rule as to suits for enhancement of rent.

XI. Whenever a claim to enhancement or abatement of rent against or by any number of ryots is brought before an Officer engaged in making or revising settlements, and empowered under Section VIII. of this Act to hear such claim, such ryots may be sued or may sue collectively, and it shall be no ground for dismissing or refusing to hear the claim that such ryots are wrongly joined as plaintiffs or defendants, provided all such ryots cultivate in the same Estate, but no decree shall be passed in any such case in which an enhancement of rent is claimed, unless such Officer as aforesaid shall be satisfied that every ryot has had an

Provision for suits by or against ryots collectively.

opportunity to appear and make objection to the claim preferred against him. Provided also that every decree passed in any such case shall specify the extent to which each of the ryots named in the decree shall be affected thereby.

Decisions liable to appeal.

XII. All decisions passed under the foregoing Sections by an Officer engaged in making or revising settlements, and invested as above, shall be open to the same appeal as is given by the said Act X. of 1859, in respect to decisions passed by a Collector in suits of the same description. Provided that no decree passed in any such suit by an Officer engaged in making or revising settlements before the passing of this Act, shall be open to question solely on the ground of want of Jurisdiction in the Officer who passed such decree, or of any error, defect, or irregularity in procedure not productive of injury to either party, but an appeal shall lie against such decree in like manner as if the suit had been decided under this Act.

Proviso as to former decisions.

Commutation of rents in kind to fixed money payments.

XIII. In all cases in which rents have heretofore been paid in kind, or by the estimated value of a portion of the crop, it shall be lawful for an Officer employed in making or revising the settlement of the Land Revenue, on the application either of the payer or the receiver of the rent, to commute such rent into a fixed money payment. The rate or amount of rent thus fixed shall be binding upon the parties concerned, subject to the provisions of the said Act X. of 1859. All decisions already passed by any such Officer, commuting rents in kind, or by valuation, to fixed rents in money, shall, subject to the same appeal as is given by the said Act X. of 1859, in respect to decisions passed by a Collector in suits under the said Act, be legal and binding.

Arbitration Chapter of Civil Procedure Code made applicable.

XIV. The provisions of Chapter VI. (relative to Arbitration) of the Code of Civil Procedure shall apply to suits under the said Act X. of 1859, and under this Act.

Provision for collection of water rate.

XV. In any District through which any canal passes, in respect of which any water rate is payable to Government, it shall be lawful for the Local Government to appoint any proprietor or farmer of any estate through which such canal passes in such District, with

the consent of such proprietor or farmer, to be a lumberdar for the collection of such water rate in such estate, and thereupon the amount annually payable on account of such water rate by the dependent Zemindars, ryots, and other under-tenants in such estate shall (subject to such abatement on account of commission or otherwise as shall be allowed by the Local Government to such lumberdar), be held to be a charge on the estate of such proprietor or farmer, and shall be added to the assessment payable to Government in respect of such estate, and the amount thereof shall be recoverable in like manner as the assessment on such estate, and for the purpose of collecting such water rate from the dependent Zemindars, ryots, and other tenants in such estate liable thereto, such lumberdar shall have the like powers and shall be subject to the same rules as are provided in any law for the time being in force in respect of the collection of the rent of land.

Rule as to person arrested under Section CXLV. of Act X. of 1859.

XVI. If any person shall be arrested under Section CXLV. of the said Act X. of 1859, he shall be brought before the Collector with all convenient speed, and the Collector shall proceed forthwith to try the case. If the case cannot be at once heard and determined, the Collector may, if he think fit, require the party arrested to give security for his person whenever the same may be required. In default of such security, the party arrested may be committed to the Civil Gaol until the case is tried.

Special appeal from decisions of Zillah Judge under Act X. of 1859.

XVII. Doubts having been entertained as to whether the decisions passed by a Zillah Judge in regular appeal under the said Act X. of 1859 are open to special appeal, it is hereby declared that it was the intention of the said Act that such decisions should be open to special appeal to the Sudder Court in the same manner, and subject to the same rules, as the decisions of Zillah Judges passed in regular appeal are open to special appeal under the Code of Civil Procedure.

Construction of Act.

XVIII. This Act shall be read and taken, in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces, and in all places to which this Act shall be extended under the next following Section, as part of the said Act X. of 1859.

Power to extend the Act.

XIX. It shall be lawful for the Governor General of India in Council to extend the provisions of Act X. of 1859, as amended by this Act, to any Territories immediately administered by the Government of India, or for the Lieutenant-Governor of the North-Western Provinces, and of the Punjab, respectively, to extend the said Act amended as above to any part of the Territories under their respective Governments, in which the said Act X. of 1859, is not now in force. Whenever the said Act, amended as above, shall be so extended, the Governor General of India in Council, or the Lieutenant-Governor, who shall so extend the same, shall declare by what Officers in the said Territories or any parts thereof, to which the said Act X. of 1859, amended as above, shall be extended, the powers given by the said Act shall be exercised, and such Officers shall thereupon be authorized to exercise such powers.

MERCHANT SEAMEN.

ACT No. XV. OF 1863.

[*Received the assent of the G. G. on the* 10*th March*, 1863.

Recites expediency of amending Act I., 1859.

1. Repeals Act I., 1859, Sections 17, 21, 81, 82, and Act XXVIII., 1861.

2. Enacts that Act I., 1859, Sections 9 to 16, shall not apply to ships registered under Act X., 1841, &c., when navigated exclusively by Asiatics, &c., or to ships of less than 200 tons, and trading between Straits' Settlements.

3. Prescribes rules, &c., for agreements with Native Seamen, except ships only in home trade not exceeding 300 tons, and saves engagements for single Seaman for British or Colonial ships; and provides for Native Seamen whose engagements end at any out-port in India.

4, 5. Empowers every Court having Admiralty Jurisdiction, &c., to enquire into charges against Masters, Mates, and Engineers, and report to Government; (5) such Court to declare its decision in open Court, &c., and (7) to give opportunity for defence is to summon such Master, &c.

6. Local Government may direct investigation in certain cases of unfitness for duties.

7. Supra.

8, 9. Defines the case in which the Local Government may cancel or suspend certificates of competency or service, (1) in case of loss &c., by default of Master, &c.; (2) of incompetency, gross misconduct or tyranny, &c.; (3) in

other specified cases; (4) of supersession by order of Admiralty Court, &c.; and (9) obliges Master, &c., to deliver up certificate if cancelled, under penalty.

10, 11. Saves certain powers of Admiralty Courts in India under Act I., 1859, Section 80; and (11) this Act to be read as part of Act I., 1859.

An Act to amend Act I. of 1859 (for the amendment of the law relating to Merchant Seamen).

Preamble.

Whereas it is expedient to amend the provisions of Act I. of 1859 (*for the amendment of the law relating to Merchant Seamen*), in so far as the said Act relates to agreements with Natives of India; to vessels trading from the Straits' Settlement to the Gulf of Siam, and the Eastern Archipelago; and to the cancelment and suspension of certificates of competency and service, it is enacted as follows:

Certain Sections of Act I. of 1859, and Act XXVIII. of 1861, repealed.

I. Sections XVII., XXI., LXXXI., and LXXXII. of the said Act I. of 1859, and Act XXVIII. of 1861 (*to extend the provisions of Act I. of 1859, for the amendment of the law relating to Merchant Seamen*), are hereby repealed.

Sections IX. to XVI. of Act I. of 1859 not to apply to ships registered under Act X. of 1841, under certain circumstances.

II. Sections IX. to XVI. of the said Act I. of 1859 shall not apply to ships registered under Act X. of 1841 (*for prescribing the rules to be observed in order that ships or vessels belonging to Ports within the Territories under the Government of the East India Company, or belonging to Native Princes or States, or their subjects, may become entitled to the privileges of British ships under a proclamation of the Governor General of India in Council, made in pursuance of the Statute* 3 *and* 4 *Victoria, Chapter* 56), and trading between Ports in India and the Coast of Arabia, when such ships are navigated and manned exclusively by Arabs, Lascars, or other Asiatic Masters and Seamen, or to ships of less than two hundred tons burden registered under the said Act X. of 1841, and trading between any Port of the Settlement of Prince of Wales' Island, Singapore, and Malacca, and the Gulf of Siam, or the Eastern Archipelago, when such ships are navigated exclusively by Malays, Lascars, or other Asiatic Masters and Seamen.

Agreements with seamen and others.

III. The master of every ship, except ships of a burden not exceeding three hundred tons employed only in the Home-trade, shall enter into an agreement with every Seaman and with every Native of India not being a Seaman whom he carries to sea from any Port in India as one of his crew, in the manner hereinafter mentioned; and every such agreement shall be in a form sanctioned by the Governor General of India in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman or other person aforesaid signs the same, and shall contain the following particulars as terms thereof (that is to say):—

1. The nature and, as far as practicable, the duration of the intended voyage or engagement.

2. The number and description of the crew, specifying how many are engaged as Sailors.

3. The time at which each Seaman and each Native of India not being a Seaman is to be on board or to begin work.

4. The capacity in which each Seaman and each Native of India not being a Seaman is to serve.

5. The amount of wages which each Seaman and each Native of India not being a Seaman is to receive.

6. A scale of the provisions which are to be furnished to each Seaman and to each Native of India not being a Seaman.

7. Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the Government as regulations proper to be adopted, and which the parties agree to adopt.

And every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the Master and Seaman, and each Native of India not being a Seaman, in each case (not being inconsistent with the provisions of this Act), as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to Law. Provided that, if the Master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew, made in

Proviso as to forms of British or Colonial ships.

due form according to the law of the place to which such ship belongs, or in which her crew were engaged, and engages single Seaman, or any Native of India not being a Seaman, in any Port in India, such Seaman or other person aforesaid may sign the agreement so made, and it shall not be necessary for such Seaman or other person aforesaid to sign an agreement under this Act. Provided also that in the case of Lascars or other Native Seamen, and every Native of India not being a Seaman, when it shall be agreed that the service of any such Seaman or other person aforesaid shall end at any Port not in India, the agreement shall contain stipulations for providing for such Seaman or other person aforesaid fit employment on board some other vessel bound to the Port at which he was shipped, or such other Port as may be agreed on, or for providing for him a passage to some such Port as aforesaid free of charge, or on such other terms as may be agreed on; and every such stipulation shall be signed by the owner of the vessel, or by the Master on his behalf.

Proviso where Lascars, &c., are shipped.

IV. Every Court having Admiralty Jurisdiction in India, and the principal Court of Ordinary Criminal Jurisdiction, at every Port in India where there is no Court having Admiralty Jurisdiction is hereby authorized to investigate and try charges of incompetency or misconduct on the part of any Master, Mate, or Engineer of any ship, who shall have obtained his certificate from the Board of Trade, and to make enquiry as to shipwreck or other casualties affecting ships; and if on such investigation it shall appear to any such Court as aforesaid, that the loss or abandonment of, or any serious damage to, any ship, or loss of life, has been caused by the wrongful act or default of any such Master, Mate, or Engineer, or that any such Master, Mate, or Engineer has been guilty of any gross act of misconduct, drunkenness, or tyranny, such Court may suspend, for such period as it shall think fit, or may cancel, such certificate, whether of competency or service, of such Master, Mate, or Engineer, and the Court shall report the same to the Local Government within whose limits such Court is situated.

Court authorized to make enquiry into charges against Masters, Mates, and Engineers, and to report to Local Government.

Provided that no certificate shall be cancelled or suspended, unless a copy of the report, or

Proviso.

a statement of the case upon which the investigation is made, shall have been furnished to the owner of the certificate before the commencement of the investigation. Provided also that the Report of such Court is confirmed by the Governor or other person administering the Local Government wherein such Court is held.

Procedure of such Court.

V. Every Court by which any investigation or trial is held under the last preceding Section shall, at the conclusion of the case, or as soon afterwards as possible, state in open Court the decision to which they may have come with respect to cancelling or suspending certificates, and shall in all cases send a full Report upon the case with the evidence to the Board of Trade, and shall also, if they determine to cancel or suspend any certificate, forward such certificate to the Board of Trade with their Report.

Local Government may direct investigation in cases of incompetency and misconduct.

VI. If the Local Government, on the information of any Shipping Master, or on any other ground, has reason to believe that any Master or Mate who has obtained a certificate of competency or service from such Government, or from any other Local Government, is from incompetency or misconduct, unfit to discharge his duties, it may direct any Board or Officer at or near to the place at which it may be convenient for the parties and witnesses to attend, to institute an investigation; and thereupon such Board or Officer shall conduct the investigation into such charge of incompetency or misconduct, and shall, on the conclusion of the investigation, make a Report upon the case to the Local Government which ordered the investigation.

Powers of Court, &c., in making enquiry.

VII. For the purpose of any such enquiry under Section IV. or Section VI., the Court, Board, or Officer may summon the Master, Mate, or Engineer, as the case may be, to appear, and shall give him full opportunity of making a defence, either in person or otherwise, and may summon and examine witnesses and may make such order with respect to the costs of such investigation, and may require such security for costs, as such Court, Board, or Officer may deem just. Every order in respect of costs under this Section may be enforced in like manner as a fine may be enforced by a Magistrate in the Port where such investigation is held.

VIII. The Local Government may suspend or cancel the certificate (whether of competency or service) granted by such Local Government, or by any other Local Government, under the said Act I. of 1859, to any Master or Mate, in the following case (that is to say):—

Local Government may cancel or suspend certificates in certain cases.

Clause 1. If upon any investigation conducted under the provisions of Sections C., CI., and CII. of Act I. of 1859, it is reported that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default.

Loss, abandonment, or serious damage by default of Master or Mate.

Clause 2. If upon any investigation held under Section VI. of this Act, the Master or Mate shall be reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness, or tyranny.

Incompetency, gross misconduct, drunkenness or tyranny of Master or Mate.

Clause 3. If upon any investigation held under the provisions of the Merchant Shipping Act, 1854, or the Merchant Shipping Amendment Act, 1862, or upon any investigation made by a Naval Court constituted as is provided by any law for the time being in force, or upon any investigation made by any Court or Tribunal authorized or hereafter to be authorized by the Legislative Authority in any British possession to make enquiry into charges of incompetency or misconduct on the part of Masters or Mates of ships, or as to shipwreck or other casualties affecting ships, it is reported that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default; or that he has been guilty of any gross act of misconduct, drunkenness, or tyranny. Provided always that, in the case of any Report by any such last-mentioned Court or Tribunal, the Report shall have been confirmed by the Governor or person administering the Government of such possession.

Or after other investigations.

Clause 4. If he had been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1854, or any other law for the time being in force.

Supersession.

Conviction of any offence.

Clause 5. If he is shown to have been convicted of any offence.

IX. Every Master, Mate, or Engineer whose certificate is cancelled or suspended under the provisions of this Act, shall deliver it to the Shipping Master, or to such other person as the Court or the Local Government which cancelled or suspended the certificate shall direct, and in default shall, for each offence, incur a penalty not exceeding five hundred Rupees. Provided that if the Local Government which cancels or suspends a certificate of a Master or Mate is not the Local Government that granted the same, the Local Government which so cancels or suspends the certificate shall report the proceedings, and the fact of cancelment or suspension, to the Local Government which granted such certificate. Provided also that it shall be competent to any Local Government at any subsequent time to grant to any person whose certificate has been cancelled a new certificate of the same or of any lower grade.

Master, Mate, or Engineer to deliver up his certificate. Penalty otherwise.

Proviso for report to other Local Governments.

X. Nothing in this Act shall be held to affect the powers of removal vested by Section CCXL. of the Merchant Shipping Act of 1854, or Section LXXX. of the said Act I. of 1859, in Courts having Admiralty jurisdiction in India. The said powers may be exercised by the Principal Court of Ordinary Criminal Jurisdiction at any Port in India where there is no Court having Admiralty Jurisdiction, if the Master or Mate shall have received his certificate from any Local Government.

Saving of powers vested in certain Admiralty Courts.

Same powers may be exercised by the Chief Criminal Court in Indian Port, where there is no Admiralty Court.

XI. This Act shall be read and taken as part of the said Act I. of 1859.

Act to be taken as part of Act I. of 1859.

EXCISE DUTY ON ART-CHEMICALS.

ACT No. XVI. OF 1863.

[*Received the assent of the G. G. on the 10th March*, 1863.

Recites expediency to make special provision as to excise duty on spirits used exclusively in Arts, &c.

1—7. Prescribes *ad valorem* duty 10 per cent. on spirits removed from distillery to be used exclusively in Arts, &c., the same being first rendered unfit for human consumption; by means (2) to be approved by Government; under (3) penalty for contravention; and (4) establishes penalty for attempting to render spirits so removed fit for human consumption; (5) such penalty to be levied by distress and sale of offender's goods; and (6) of detention of offender till realization; and (7) for imprisonment on failure to realize.

8. Excepts from Act III., 1852, Section 11, as to mixing spirits removed under this Act.

9. Establishes confiscation of liquor, &c., in case of conviction under Sections 3 and 4 of this Act.

An Act to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry.

Preamble.

Whereas, it is expedient to make special provision for the levy of the Excise Duty payable on spirits used exclusively in Arts and Manufactures or in Chemistry, it is enacted as follows:

Such spirits may be removed from Distillery on payment of Duty, on condition.

I. Spirits intended to be used exclusively in Arts and Manufactures or in Chemistry may be removed from any licensed Distillery in any part of British India on payment of Duty calculated at ten per cent. on the value of the Spirits, provided that no Spirits shall be so removed until they have been effectually and permanently rendered unfit for human consumption.

Rules for ascertaining and determining that spirits to be removed have been rendered unfit for human consumption, &c.

II. The Board of Revenue, or other Authority specially authorised in that behalf by the Local Government, shall prescribe from time to time, subject to the approval of the Local Government, rules for ascertaining and determining that Spirits proposed to be removed for the purposes aforesaid have been effectually and permanently rendered unfit for human consumption, as required by Section I. of this Act; for causing such Spirits to be so rendered, if necessary, by its own Officers, at the expense of the person who wishes to remove them; and for fixing the value of the Spirit on which the *ad valorem* Duty shall be levied.

Penalty for breach of such rules.

III. Every person who shall wilfully contravene any rule prescribed by the Board of Revenue, or other Authority as aforesaid, under the last

preceding Section of this Act, shall be liable on conviction before any Officer exercising the powers of a Magistrate to a penalty not exceeding five hundred Rupees for every such offence.

Penalty for attempting to render fit for human consumption, spirits removed under this Act.

IV. Every person who shall attempt, or shall connive at an attempt, to render fit for human consumption, Spirits removed from a Distillery under the provisions of this Act, shall be liable to a penalty not exceeding one thousand Rupees; and the possessor of such Spirits on which such attempt has been made, or which may have been rendered fit for human consumption, shall be liable on conviction before any Officer exercising the powers of a Magistrate to a penalty not exceeding five hundred Rupees.

Such penalty, how to be levied.

V. Any penalty imposed under either of the last two preceding Sections may in case of non-payment be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of the Officer by whom such penalty was imposed.

In case of non-payment of penalty, offender may be detained pending return to distress warrant.

VI. In case any such penalty shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody, until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time, as shall be appointed for the return of the warrant of distress.

Imprisonment of offender in case of failure to recover penalty by distress.

VII. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such penalty could be levied if a warrant of distress were issued, any such Officer may by warrant under his hand, commit the offender to the Civil Gaol, there to be imprisoned, according to the discretion of such Officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed fifty Rupees, and for any term not exceeding four calendar months, when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case,

the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Provisions of Section XI., Act III. of 1852 relating to adulteration, not to apply to spirits rendered unfit for consumption under this Act.

VIII. The prohibition contained in Section XI. of Act III. of 1852 (*to amend the law relating to spirituous and intoxicating liquors, drugs, and preparations within the Territories subordinate to the Presidency of Bombay*), against mixing any noxious drug or material in, or by other process adulterating Spirits manufactured under the provisions of Regulation XXI. of 1827 of the Bombay Code, or of the said Act III. of 1852, shall not apply to Spirits rendered unfit for human consumption under this Act.

Confiscation in cases of conviction under Section III. or IV.

IX. In every case of conviction under Section III. or Section IV. of this Act the liquor or Spirits with the cask or vessel containing the same, and the cart, boat, and animal or animals employed in carrying such liquor or Spirit, shall be liable to confiscation.

STRAITS' SETTLEMENTS.—MUNICIPAL COMMISSIONERS.

ACT No. XVII. OF 1863.

[*Received the assent of the G. G. on the 10th March*, 1863.

Recites expediency of extending term of office of Municipal Commissioners.

1. Repeals Act XXVII., 1856, Section 19.

2. Empowers Governor to extend time of office for not exceeding three years.

3—8. Provides graduated time of office for elected Commissioners; and (4—8) graduated scale does not apply; Governor to fix terms of office.

9, 10. Limits term of office of Commissioners filling up vacancies.

11. Enjoins publication of the names of Commissioners.

12. Year of office to commence on 1st January after election; limits the number of Commissioners.

13. Act to be read as part of Act XXVII., 1856.

An Act to authorize the extension of the term of Office of the Municipal Commissioners in the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Preamble.

Whereas it is expedient that the term of Office of the Municipal Commissioners in the Straits' Settlement should be extended, it is enacted as follows:

I. Section XIX. of Act XXVII. of 1856 (*for appointing Municipal Commissioners, and for levying rates and taxes in the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*), is repealed. The operation of Section XV. of the said Act shall be suspended at the election of Municipal Commissioners under the said Act, to be held next after the passing of this Act.

Section repealed.

Section suspended.

II. The Governor of the Settlement shall, upon the appointment of the Commissioner whom he is empowered by the said Act XXVII. of 1856, Section V., to appoint, declare for what number of years, not exceeding three, such Commissioner shall hold Office.

Governor to declare for what period Commissioner appointed by him shall hold Office.

III. The Municipal Commissioners of Prince of Wales' Island, Singapore, and Malacca, respectively, who shall be chosen at the said next election by the largest number of votes, shall hold their Office for one, two, or three years, as shall be determined in manner hereinafter mentioned.

Elected Commissioners to hold Office for periods to be determined as provided.

IV. The Municipal Commissioner who is chosen at such next election by the largest number of votes shall hold his Office for three years; the Municipal Commissioner who is chosen by the next largest number of votes shall hold his Office for two years, and the remaining Municipal Commissioner shall hold his Office for one year.

Allotment of periods for tenure of Office, by number of votes.

V. If at any of the said Stations the three Municipal Commissioners chosen at the said next election shall be elected by an equal number of votes, the Governor, or, in his absence from such Station, the Resident Councillor shall declare and appoint the periods of three years, two years, and one year, respectively, for which every such elected Municipal Commissioner shall hold Office.

Allotment in case of votes for all three commissioners being equal.

VI. If at any of the said Stations at the said next election, two of the Municipal Commissioners chosen shall have an equality of votes, but such number shall be greater than the number of votes given for the third Municipal Commissioner; the Governor, or, in his absence, the Resident Councillor shall declare and ap-

And in case of votes for two being equal and yet greater than for the third.

point the periods of three years, and two years respectively, for which each of the said two Municipal Commissioners shall hold Office; and the other Municipal Commissioner shall hold Office for one year only.

And in case of one having a majority, and the other two an equal number.

VII. If at any of the said Stations at the said next election, one of the Municipal Commissioners chosen shall have a number of votes larger than the other two Municipal Commissioners, and such other two Commissioners shall have an equality of votes, the Municipal Commissioner who shall have such larger number of votes shall hold Office for three years, and the Governor, or, in his absence, the Resident Councillor, shall declare the periods of two years, and one year, respectively, for which each of the other two Municipal Commissioners shall hold Office.

When two or more candidates have an equal number of votes, election how to be determined.

VIII. If at any of the said Stations an equal number of votes be given for any two or more candidates at the next said election, so that the Sheriff or his Deputy is not able to declare as between such persons, which of them has been elected the Governor, or, in his absence, the Resident Councillor, shall give a casting vote for one or more of such persons, and reckoning such vote, shall declare the period for which such person or persons shall hold Office in manner provided in Section IV.

Term of tenure of Office of Commissioner appointed under Section XVI. of Act XXVII. of 1856.

IX. Every Commissioner appointed under Section XVI. of the said Act XXVII. of 1856, in consequence of a refusal to act, a failure of election, or otherwise, shall hold Office for such term as the Governor or Resident Councillor of the Station shall declare. Provided that such term shall in no case exceed three years, and shall be a term which shall conform to the terms for which the other Commissioner or Commissioners shall have been declared and appointed to hold Office under Section IV. of this Act, so that the three Commissioners shall hold their Offices for three years, two years, and one year, respectively.

Proviso.

And of Commissioner appointed under Section XVII. of said Act.

X. Every Commissioner appointed under the provisions of Section XVII. of the said Act XXVII. of 1856, in place of any Commissioner elected

at the said next election, shall hold Office for the term for which the Commissioner in whose place he is appointed was entitled to hold office.

Names and terms of Office to be published.

XI. The names of the persons elected or appointed to be Municipal Commissioner under this Act, and the terms for which such persons shall hold Office, shall be published in such manner as the Governor may direct.

Commissioners when to enter on Office. Subsequent elections limited to one. Appointments to vacancies.

XII. The Municipal Commissioners at each of the said Stations, elected under the provisions of this Act, shall enter upon their Office on the First day of January after their election, and shall hold Office for the periods hereinbefore provided. At every subsequent election under the said Act XXVII. of 1856, one Commissioner only shall be elected. The Commissioner elected at such subsequent election shall hold Office for three years. Appointments to fill up any vacancy occasioned by the death, resignation, or refusal to act, of any such Commissioner, shall have effect for the period for which such Commissioner would have held Office, but for such death, resignation, or refusal to act, and all the provisions of the said Act XXVII. of 1856, so far as they are not affected by this Act, which relate to the election of three Commissioners at each annual election, shall, so far as practicable, be construed to apply to the election of one Commissioner only.

Construction of Act.

XIII. This Act shall be read and taken as part of the said Act XXVII. of 1856.

MASTER'S OFFICE, SUPREME COURT, FORT WILLIAM; OATHS; CIVIL PROCEDURE.

Act No. XVIII. of 1863.

[*Received the assent of the G. G. on the* 10*th March*, 1863.

1—3. Gives Master special powers to enable him to settle and wind up matters; and (2) to report; and (3) supplements the Master's power.

4. That no fresh references shall be made to the Master except in suits already before him.

5. That all powers possessed by the Master may be exercised by the Judges.

6. Authorizes the Court to dismiss suits on certificate of the Master of no proceedings within one year.

7. Empowers Division Court to refer matters for investigation by a single Judge.

8. Empowers High Court to make general rules for winding up pending business.

OATHS. All the Presidencies.

9. Substitutes affirmation for oath in H. M.'s Courts.

CIVIL PROCEDURE. 10. Process to be served by Attorneys instead of Sheriffs.

11. Relieves Judge from signing process.

12. Empowers Governor of Bombay and Governor of Madras to extend the provisions of this Act to those Presidencies.

An Act to make provision for the speedy and efficient disposal of the business now pending in the Office of the Master of the High Court of Judicature at Fort William in Bengal, and to provide for the abolition of the Oaths now administered to Hindoos and Mahomedans in the said Court, and to amend the Code of Civil Procedure in respect of process issued out of the said Court in the exercise of its Original Civil Jurisdiction.

Preamble.

Whereas, at the time of the abolition of the late Supreme Court of Judicature at Fort William in Bengal, many matters which had been referred to the Master of the said Court were pending before him, and many of them are still pending before the Master of the High Court, and it is expedient that all such matters should be wound up and determined as expeditiously as possible; and whereas it is expedient that the law concerning the administration of oaths to Hindoos and Mahomedans in such Court should be assimilated to the law concerning such oaths in Courts not established by Royal Charter; and that the Code of Civil Procedure should be amended in respect of process issued out of the said High Court in the exercise of its Ordinary Original Civil Jurisdiction, it is enacted as follows:

I. to VIII. See Note at end of Act.

Extension of Act V. of 1840, concerning oaths and declarations of Hindoos and Mahomedans, to High Court.

IX. The proviso contained in Section IV. of Act V. of 1840 (*concerning the oaths, and declarations of Hindoos and Mahomedans*), that the said Act shall not apply to any declaration or affirmation made in any of Her Majesty's

Courts of Justice, is hereby repealed, and Section I. of the said Act V. of 1840, shall be read as if the words following had been added thereto :—

"And when verifying an Affidavit to the following effect:—I solemnly affirm in the presence of Almighty God that the signature to this is my name and hand-writing, and that the contents of this Affidavit are true."

Process from High Court may be served by Attorneys and others.

X. After the passing of this Act notices to produce documents or writings, summonses to witnesses, and all other judicial process issued in the exercise of the Ordinary Original Civil Jurisdiction of the High Court of Judicature at Fort William in Bengal, except writs of summons to defendants issued under Section XLI. of Act VIII. of 1859 (*the Code of Civil Procedure*), and writs of execution, may be served by the Attorneys in the suit, or by persons employed by them, or in such other manner as the said High Court shall by any rules or orders from time to time direct.

Not to be necessary for a Judge to sign process.

XI. It shall not be necessary for a Judge of the said High Court to sign any writ, order, summons, or other judicial process issued or made in the exercise of the Ordinary Original Civil Jurisdiction of the said High Court. The said High Court shall have power from time to time to direct that such writs, orders, or other process shall be signed by such Officer or Officers of the said Court as to the Court may seem fit.

Extension of the Act to the High Courts at Madras and Bombay.

XII. This Act may be extended to the High Court of Judicature at Madras, and the High Court of Judicature at Bombay, by an order of the Governor in Council of Fort St. George, and the Governor in Council of Bombay, respectively, to be published in the Official Gazettes of Madras and Bombay, respectively; and when so extended by such order, shall take effect in the said Courts from the date of the publication of such order. When so extended to either of such High Courts, this Act shall in all respects apply to such High Court in the same manner as if the name of such High Court had appeared in this Act wherever the name of the High Court of Judicature at Fort William in Bengal appears.

The suppressed Sections of this Act have become obsolete by the establishment of the High Courts, and the cessation of the Master's Office.

NORTH-WESTERN PROVINCES.—PARTITION OF ESTATES.

ACT XIX. OF 1863.

[*Received the assent of the G. G. on the 10th March*, 1863.

Recites expediency of consolidating, &c., the law relating to the partition of estates paying revenue to Government, &c.

1, 2. Repeals so far as concern the North-Western Provinces (except as to pending proceedings), Bengal Reg. IX., 1811; Bengal Reg. XI., 1811; Bengal Reg. XIX., 1814; Acts XX., 1836, and XI., 1838; and (2) directs that all future partitions shall be made under this Act.

3—5. Declares all recorded joint proprietors entitled to claim partition; (4) by an application in writing; (5) signed by applicant, &c.

6—8. Directs Collector what to do upon receiving such application; and (7) to refuse same on valid objection made; and (8) if the objection be to proprietory title of applicant Collector is to proceed according to Civil Code of Procedure.

9, 10. Gives an appeal to District Court against all orders and decisions of Collectors for declaring rights; and (10) a special appeal to Sudder from District Courts.

11. Civil Court to have only appellate jurisdiction.

12, 13. Directs Collectors what to do on partition being ordered; and (13) by whom order is to be carried out.

14. Directs that the expense of making partition shall be ascertained, &c., and in default of payment may be recovered how.

15. Partition may be stayed and proceedings quashed on grounds not known when commenced.

16. Directs by what steps partition is to be determined.

17—20. Empowers Collector to examine parties and papers; and (18) at end of enquiry to give the option of settlement by private agreement or by arbitration; and (19) may, if parties cannot agree as to arbitrators, appoint them; and (20) appoint new arbitrator in case of vacancy.

21—23. Directs the Collector what to do to put arbitrators in action; and (22) what arbitrators shall do; and (23) entitles them to remuneration.

24—27. In default of first arbitrators to make award, new ones may be appointed; and (25) in default of private agreement, &c., officer may be appointed to make partition; who (26) shall summon parties concerned; and (27) estates may be put under khas management.

28. Provides for payment of revenue if it falls in arrear pending proceedings for partition.

29. Empowers Settlement Officer to engage all necessary assistants in measuring, &c.

30—32. Directs Collector to declare the principle and rule under which lands held in common are to be divided; and (31) to refuse partition of such lands in certain case; and (32) to transfer as separate estate lands held in severalty.

33. Deprives, of his right to make objection, shareholder who fails to attend on partition.

34. In case of wish of parties interested Collector, &c., may stop partition.

35. Directs that, in making partition, property shall be allotted so as to be as compact as possible.

36, 37. The public revenue to be assessed on the new estates according to law for the time being; and (37) to be adjusted in amount according to difference of productive value and various circumstances specified.

38—40. Directs, in case in which house of one sharer is on land of another, what shall be done; and (39) what shall be done in case of tanks, wells, water-courses, &c., property belonging to estate in common which cannot be divided; and (40) what as to places of worship.

41—44. Directs Settlement Officer, when partition of estate and apportionment of revenue are complete, to submit papers, with map, to the Collector; who (42) shall take the whole matter into consideration; and (43) confirm or modify partition, subject to appeal, and may direct lots to be drawn for shares; and (44) in case of appeal to Board, Collector shall publish and give effect to Board's decision.

45. Empowers Government to order new apportionment of revenue in case of error in apportionment or partition, from collusion, fraud, or other cause.

46. Party interested in estate, and entitled to hold at a fixed rent, but not making his claim by suit, to be barred his right, after partition, unless he can show good cause to the contrary.

47—49. Entitles decree-holder to claim partition of his share, and (48) holder of several shares originally undivided to have them united; application for which (49) is to be made, how.

50, 51. The procedure directed by this Act may be applied in certain respects to pending cases; and (51) to partition of estate not paying revenue, so far as applicable.

52, 53. Collector's duty under this Act to be subject to general control, &c., of Board; and (53) all his orders, except under Section 9, to be open to revision.

54, 55. The powers of Collector may be exercised by Deputy Collector; (55) with the powers described in Regulation II., 1819, Regulation VII., 1822, and Regulation IX. and XIV., 1825.

56. Gives Collector and Settlement Officer the same powers as Civil Court under Code of Criminal Procedure, of committing for offences.

57. Subordinates Board of Revenue to Government in the exercise of its functions under this Act.

58. Interpretation of words of Number and Gender.

59. Confines Act to Regulation parts of North-Western Provinces.

An Act to consolidate and amend the Law relating to the partition of estates paying Revenue to the Government in the North-Western Provinces of the Presidency of Fort William in Bengal.

Preamble.

Whereas it is expedient to consolidate and amend the Law relating to the partition of Estates paying Revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal, it is enacted as follows:

Laws repealed.

I. From the date of the passing of this Act, Regulation IX. of 1811 of the Bengal Code (*for facilitating the Division of landed Property, and for securing the Rights of joint Sharers in joint undivided Estates*), Regulation XI., 1811, of the same Code (*for extending the period fixed by the existing Regulations for revising the Jumma on Lands ordered to be divided into two or more Estates*), Regulation XIX., 1814, of the same Code (*for reducing to one Regulation, with alterations and additions, certain Regulations respecting the Partition of Estates paying Revenue to Government*), Act XX. of 1836, and Act XI. of 1838, except in so far as the said Regulations and Acts repeal any Regulation or Act, or any part of any Regulation or Act, and except as to the partition of any estate which shall be pending at the time of the passing of this Act, shall cease to have effect in the North-Western Provinces of the Presidency of Fort William in Bengal; unless as hereinafter provided, the partition of any estate which shall be pending at the time of the passing of this Act, shall be proceeded with and completed in the same manner as if this Act had not been passed.

Future partitions to be made under provisions of this Act.

II. Except as directed in the last preceding Section, all partitions of estates which shall be ordered to be made by the Officers of Government after the passing of this Act, shall be made under the provisions of this Act, whatever may be the tenure of the estate ordered to be divided.

III. Every recorded proprietor of a joint undivided estate paying Revenue to Government, or of any portion thereof, whether such estate is held in common tenancy or otherwise, is entitled to claim partition under this Act.

What parties entitled to partition.

IV. When any one or more of the recorded proprietors of an estate, as described in the last preceding Section, shall desire to have his or their shares of the estate separated, in order that he or they may hold the same as a separate property, or as separate properties, such proprietor or proprietors shall make a written application for the purpose to the Collector of the District. Any two or more proprietors may apply to have their shares separated, and to hold the same as a joint estate.

Parties desirous of partition to apply to Collector in writing.

V. The application shall be signed by the party or parties applying for the partition, and shall specify the nature of the tenure of the estate sought to be divided. The names of all the co-sharers in the estate, the nature and extent of their respective shares so far as the same may be known to the applicant or applicants, or can be ascertained by him or them, and the mode of partition desired, shall also be stated. If the application does not contain the particulars above-mentioned, the Collector may reject it.

Application to be signed and certain particulars specified.

Otherwise may be rejected.

VI. The Collector, on the receipt of an application for partition, shall, if the application be in order, and not open to objection on the face of it, publish a Notification of the same at his Office, and at some conspicuous place on the estate to which the application relates, and shall invite any party in possession, who may not have joined in the application, and who may object to the partition applied for, to appear before him either in person or by a duly constituted agent, on a day to be specified in the Notification not being less than fifteen, or more than thirty days from the date of the Notification, and state his objection. If the application for partition shall not have been made by all the recorded proprietors of the estate, notice of the

Procedure of Collector on receipt of application.

Notice to proprietors who have not joined therein.

application shall be served, in the manner usual in the District for serving notices of the Revenue Officers, on such of the recorded proprietors of the estate as shall not have joined in the application. Provided that, if from any cause such service cannot take place, a proclamation notifying such application shall be published, by affixing it at the Mal-Cutcherry of such estate, or other conspicuous place thereon, or at the village Chowrie, Choupal, or other conspicuous place in each village in such estate.

Proclamation in case of service of notice being impracticable.

VII. If any objection be made to the partition, by any party in possession, within the time allowed, and the Collector, on a consideration of such objection be of opinion, that there is any good and sufficient reason, not inconsistent with the provisions of this Act, why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

In case of valid objection being made within time allowed, application may be refused.

VIII. If the objection raise any question of title, or of proprietary right, which shall not appear to have been already determined by a Court of competent jurisdiction, the Collector may either decline to grant the application until the question in dispute shall have been determined by a competent Court, or he may proceed to enquire into the merits of the objection. In the latter case the Collector, after making the necessary enquiry and taking such evidence as may be adduced, shall record a proceeding declaring the nature and extent of the interests in the actual possession of the party or parties applying for the partition, and any other party or parties who may be affected thereby. The procedure to be observed by the Collector in trying such cases shall be that laid down in Act VIII. of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*), for the trial of original suits, and the Collector shall have power to refer any question that may arise in such case to arbitration, and the provisions of Chapter VI. (relative to arbitrators) of the Code of Civil Procedure shall apply to cases so referred by a Collector.

Procedure if question of title, or of proprietary right be raised.

Reference to arbitrators.

IX. All orders and decisions passed by the Collector under the last preceding Section, for declaring the rights of parties, shall be held to be decisions of a Court of Civil Judicature of first instance, and shall be open to appeal to the District or Sudder Court, according to the value of the claim, under the rules applicable to regular appeals to those Courts. Upon such appeal being made, the District or Sudder Court, as the case may be, may issue a precept to the Collector desiring him to stay the partition pending the decision of the appeal.

Decision of Collector equivalent to decision of Civil Court, and open to appeal.

Appellate Court may, on appeal, stay partition.

X. From every decision passed under the last preceding Section by a District Court, a special appeal shall lie to the Sudder Court under the rules for the time being in force relating to special appeals to that Court.

Special appeal to Sudder Court.

XI. It shall not be competent to the Civil Court to entertain a suit, or application for the partition of an estate, except on appeal from the decision of the Collector as hereinbefore provided, anything contained in Section 225, Act VIII. of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*), to the contrary notwithstanding.

Civil Court to entertain suits only on appeal from decision of Collector.

XII. When the Collector, after disposing of the objections (if any) taken to the partition, shall order a partition to be made, he shall cause a Notification to be published in his own Office, in the District Court, and at some conspicuous place on the estate which is to be divided, intimating his intention to proceed with the partition after thirty days from the date of the Notification.

Notification on partition being ordered.

XIII. The partition shall be made by the Collector in whose District the estate is situate, or if the estate be situate in two or more Districts then by the Collector of any one of such Districts, who may be specially ordered by the Commissioner of the Division to superintend the partition. If the estate be situated in two or more Divisions, the partition shall be made by such Collector as the Board of Revenue shall order.

Partition by whom to be carried out.

XIV. The expense of making the partition and the allowances of the establishment necessary for the measurement and survey of the lands, the preparation of papers, and any other charges shall be fixed by the Collector. The amount shall be paid under such rules as may from time to time be laid down by the Board of Revenue with the sanction of the Local Government, and, in default of payment, may be realized under the rules applicable to the recovery of arrears of rent or Revenue.

Assessment and levy of costs incurred in making partition.

XV. At any stage of the proceedings after a partition shall have been ordered, if it shall appear from information which was not before the Collector at the time the partition was ordered, or otherwise, that any reason not inconsistent with the provisions of this Act exists, why the partition should not be proceeded with, it shall be competent to the Commissioner, on the report of the Collector, and subject to any orders that the Board of Revenue may pass in the case, to stay the partition, and to order the proceedings to be quashed. The decision of the Revenue Authorities under this Section shall not be open to revision by the Civil Court.

Partition may be stayed, and proceedings quashed, by Commissioner.

Decision not open to revision by Civil Court.

XVI. After the expiration of the period mentioned in the Notification referred to in Section XII. of this Act, the Collector shall, if necessary, cause a measurement of all the lands comprised in the estate to be made, and a rent-roll of the same to be prepared. The village papers which are required to be prepared and periodically deposited in the Office of the Collector, under the provisions of Section XI. and XII., Regulation IX., 1833 (*to modify certain portions of Regulation VII.*, 1822, *and Regulation IV.*, 1828; *to provide for the more speedy and satisfactory decision of Judicial Questions cognizable by Officers of Revenue employed in making Settlements under the above Regulations; for enforcing the production of the village accounts; for the more extensive employment of Native Agency in the Revenue Department; and to declare the intent of Section V., Regulation VII.*, 1822, *touching claims to Malikana*), may be used for the purposes of this Act. Provided that any of the Proprietors shall

Procedure after lapse of period mentioned in Notification under Section XII.

be permitted to file a rent-roll of the estate, which shall be accepted if acknowleged to be correct by all the proprietors.

Examination of the parties and their papers.

XVII. The Collector may examine the parties on solemn affirmation in regard to the papers produced before him, whether by the Officer appointed to make the partition, the proprietors, or otherwise. He shall also allow any shareholder to examine the papers so produced, and to take a copy of the same, and after such examination, he shall hear any objections which any of the shareholders may make in respect to such papers. The Collector may direct any Deputy Collector or other Officer subordinate to him to examine the papers produced before him, and to make a report upon the same.

Option of settlement by private agreement. Procedure in case of refusal or default.

XVIII. The Collector, on the completion of the enquiry allowed by the last preceding Section, shall allow the parties the option of making a private partition of the estate and allotment of the public Revenue amongst themselves, within such time as he may fix, or, if the parties shall not consent to make a private partition of the estate, or shall fail to make such partition within the time fixed by the Collector, the Collector shall call upon them to state whether they are willing to refer the partition of the estate, and the apportionment of the public Revenue, to an arbitrator or arbitrators to be appointed by them. The Collector may also offer the parties the option of referring any point arising in the course of a partition to arbitration. The partition and allotment of the public Revenue made by the parties or by arbitrators appointed by them, shall be subject to the confirmation of the Collector, and the orders of the superior Revenue Authorities.

If parties cannot agree as to arbitrators, latter may be appointed by Collector.

XIX. If the parties consent to refer the partition of the estate, and the allotment of the public Revenue, or any point arising in the course of the partition, to arbitration, but they cannot agree amongst themselves as to the arbitrator or arbitrators to be appointed, the Collector may appoint two or more persons to be arbitrators in the case. If

In case of equality of votes, Collector to Act as umpire.

the arbitrators are equally divided in opinion, the Collector shall act as umpire, and the

partition made by the arbitrator or arbitrators with whom the Collector shall concur shall be the partition in the case. The same rule shall apply in respect of any point arising in the course of a partition, which shall be referred to arbitration.

Appointment in place of arbitrator refusing, or being unable to act.

XX. If any person, on being appointed an arbitrator, shall refuse to act, or, after accepting the appointment, shall die or become incapable of acting, another person shall be appointed arbitrator in his stead, in the same manner in which the first person was appointed.

Powers of Collector with regard to arbitrators.

XXI. After the arbitrator shall have accepted the appointment, the Collector shall transmit the whole of the papers to them, and it shall be competent to the Collector to exercise towards the arbitrators the same powers and authority for securing their attendance, and the due completion of their award which he is competent to exercise towards witnesses summoned before him when acting judicially, for the purpose of compelling them to attend and give evidence. The Collector shall also fix a time within which the arbitrator or arbitrators shall deliver the paper of partition. On sufficient cause shown, the Collector may extend such period.

Particulars to be specified in partition paper.

XXII. The arbitrators shall deliver a full and complete paper of partition, specifying the separate estates into which they propose that the estate shall be divided, the names of the parties to whom the several estates are proposed to be allotted, and the amount of public Revenue to be assessed on each of such estates.

Remuneration of arbitrators.

XXIII. The arbitrators, on delivering the paper of partition as aforesaid, shall be entitled to reasonable fees for their services, the amount to be fixed by the Collector.

In default of award by first arbitrators, partition may be referred to others.

XXIV. If the paper of partition be not delivered within the time fixed by the Collector, or within any further period to which the time may have been extended, the Collector may order that the partition shall be referred to another arbitrator or arbitrators, to be chosen in the same manner and subject to the same rules as the first.

XXV. If the partition of the estate cannot be made by the parties themselves, or by arbitration under the foregoing rules, the Collector shall appoint an Officer to make the partition, and shall forward the whole of the papers to such Officer, and shall direct him to proceed to the estate, and to make the partition within a time to be fixed by the Collector.

In default of private agreement, or settlement by arbitration, Officer may be appointed to make partition.

XXVI. The Officer appointed to make the partition shall issue a proclamation at the Mal-Cutcherry of the estate, or other conspicuous place thereon, or at the village Chouree, or Choupal, requiring the several proprietors of the estate to attend upon him in person, or by agent, during the time that the partition is being made.

Who shall summon proprietors by proclamation to attend proceedings.

XXVII. At the commencement of the Revenue year current in the District, the Collector may direct the Officer appointed to make the partition or some other person, to attach the estate, and to bring it under Khas management under the personal superintendence of such Officer. The collections of the estate, after defraying the expenses of management and any other expenses with which the estate is chargeable, shall be applied to the payment of the Government Revenue, and the residue shall be divided amongst the proprietors in proportion to their respective shares, at such periods as the Collector may see fit.

Estate may be attached and brought under Khas management under superintendence of Officer.

XXVIII. If an arrear of public Revenue shall accrue on an estate ordered to be divided, while the partition of the estate is being made, any one or more of the proprietors may tender to the Collector his or their quota of the balance, and the Collector shall receive the same, and credit the amount to the share or shares of such proprietor or proprietors. If a sale of any part of the estate shall ultimately become necessary for the liquidation of any part of such arrear which may remain due, only the share or shares of the proprietor or proprietors who shall not have contributed their quota of the balance shall be sold in the first instance, and the partition shall go on and be completed, in the same manner as if no arrear of public Revenue

Procedure in case of arrears of revenue accruing during course of partition of estate.

had accrued. The purchaser or purchasers of the share or shares sold shall be entitled to separate possession of the estate or estates which, under the partition, would have been allotted to the defaulting proprietor or proprietors. Provided always that, in all cases of a partition, the entire estate shall be considered responsible for the public Revenue assessed upon it, until the partition shall have been completed, and the several proprietors shall have been put into possession of the separate estates into which the estate may be ordered to be divided, according as the same may be allotted to them.

Powers of Officer charged with partition, in respect of measurement, &c.

XXIX. If the Officer appointed to make the partition shall consider it necessary, to assist him in making the same, to cause a detailed measurement to be made of all the lands comprised in the estate, or a map of the estate to be prepared, he shall exercise the same powers for making such measurement and map as are vested in the Collector by any law for the time being in force.

Division of lands held in common.

XXX. When some of the lands forming the estate are held in common, the Collector shall declare, by a proceeding to be held under the provisions of this Act, the principle and rule under which, in accordance with the village custom, such lands shall be divided; and he shall cause the partition of such lands to be made in conformity to the provisions of this Act. The portion of the common land falling by such partition to the shares of the several co-sharers shall be added to the lands held by them in severalty, and the several estates thus formed shall be assessed and declared separate estates. Provided that it shall be in the discretion of the Collector to cause any transfer of lands, agreed to by the parties, to be made previous to such declaration, and the new estate shall be declared subject to the transfer so made.

Proviso.

Collector may refuse to separate lands in certain cases.

XXXI. The Collector may refuse to declare any lands held in severalty, and not liable to re-distribution according to special village custom, a separate mehal, if the lands be so intermixed with other properties as to render the formation of a compact estate impossible, and if the parties affected by the partition decline to permit of the transfers necessary for curing such defect.

XXXII. Where there may be no lands held in common, the lands in severalty, held by the applicant for partition, or assigned to him by the Collector under the provisions of this Act, shall be assessed and declared a separate estate. Provided that it shall be in the discretion of the Collector to cause any transfer of lands agreed to, or directed by his order, as provided in Section XXX., to be made previous to such declaration, and the new estate shall be declared subject to the transfer so made.

Where no lands held in common, lands in severalty may be declared a separate estate.

Proviso as to transfers.

XXXIII. If any sharer, after the issue of the proclamation mentioned in Section XXVI. of this Act, shall fail to attend, the Officer appointed to make the partition during the time the partition is being made, no objection taken by such sharer to the partition shall be heard, unless such sharer can show that his absence was not wilful, or unless for any good and sufficient reason it shall appear just and proper to allow him to be heard against the partition.

Sharer failing to attend after proclamation liable to forfeit right of objection.

XXXIV. If at any time after an order shall have been passed for making a partition, it shall appear, either from the report of the Officer appointed to make the partition, or from any other information, that the parties are not desirous that the partition should proceed, it shall be competent to the Collector, with the sanction of the Commissioner, to stop the partition, and to strike the case off the file, recovering from the sharers all costs and expenses incurred up to that time.

Partition may be stayed if parties so desire.

Recovery of Costs.

XXXV. It shall be the duty of the Officer appointed to make the partition, so far as circumstances will admit, to take care that the estates into which the estate is divided shall consist of contiguous mehals or villages. Provided that, if the estate ordered to be divided shall not consist of a sufficient number of villages to admit of one or more entire village or villages being included in each estate, the partition of the village or villages of which the estate shall consist shall be made so as to render each estate as compact as possible.

Estates formed in course of partition to be as compact as possible.

XXXVI. The public Revenue shall be assessed on each estate into which the property shall be ordered to be divided, in conformity to the rules contained in any law for the time being in force.

Revenue to be assessed on each divided estate.

XXXVII. In selecting the villages or lands to be included in each separate estate, the advantages or disadvantages arising from situation; the vicinity of roads, Railways, navigable rivers or canals; the nature and quality of the soil and produce; the quantity of culturable and unculturable waste land; the depth at which water may be procurable; the number of tanks and wells; the state of the embankments and water-courses; and any other local circumstances affecting the present, or likely to influence the future value of the lands, shall be duly considered; and the villages or lands to be included in each estate shall be fairly and impartially selected. So far as may be practicable, and consistent with compactness of partition, lands held in severalty shall be left in the possession of the parties holding the same.

Circumstances to be considered in making partitions.

XXXVIII. If a dwelling-house belonging to one sharer shall be situate on any land, or in any village, which it may be necessary to include in the share of another sharer, the proprietor of such house shall be at liberty to retain it, with the offices, buildings, and grounds, immediately attached thereto, upon agreeing to pay to the proprietor of the land or village in which the same is situate an equitable rent for the ground. The limits of the ground and the rent to be paid for it shall be fixed by the Officer making the partition, and shall be stated in the paper of partition.

Rule when dwelling-house belonging to one sharer, is situate on ground to be allotted to another sharer.

XXXIX. Tanks, wells, water-courses, and embankments, shall be considered as attached to the land, for the benefit of which they were originally made. In cases in which, from the extent, situation, or construction of such Works it shall be found necessary to continue them the joint property of the proprietors of two or more of the estates into which the estate may be divided, the paper of partition shall specify, as far as circumstances may admit, the extent to which the proprietors of each of

Rule as to tanks, wells, water-courses, and embankments.

such estates may make use of the same, and the proportion of the charges for repairs to be borne by them respectively.

Rule as to places of worship.

XL. Places of worship, which shall have been held in common previous to the partition of an estate, shall continue to be so held, unless the parties shall otherwise agree amongst themselves, in which case they shall state in writing the agreement into which they have entered, and the Officer making the partition shall enter a note of the agreement in the paper of partition.

Particulars to be contained in the paper of partition to be submitted by Officer making same.

XLI. When the Officer appointed to make the partition shall have completed the partition, and allotted the public Revenue on each of the estates into which it is proposed that the estate shall be divided, he shall prepare and submit to the Collector a paper of partition, showing how he proposes to divide the estate, and to apportion the public Revenue. This paper shall specify the names of the Mehals or villages included in each separate estate; the gross produce of each Mehal and village for the three years immediately preceding the year in which the partition is ordered to be made; the names of the parties to whom the several estates are allotted, and the proportion of the public Revenue proposed to be assessed on each of such estates, with any remarks regarding the mode observed in selecting the lands included in each estate, and the accounts upon which the apportionment of the public Revenue assessed thereon shall have been based, as may be necessary for the information of the Collector. The paper shall further contain a detail of the adjustments, if any, which shall have been made in respect to any tanks, places of worship, or other matters, as specified in the preceding Sections. The Officer appointed to make the partition shall also submit a map, showing the several estates into which the estate is proposed to be divided.

Map to be also submitted.

Procedure of Collector thereupon.

XLII. The Collector shall take into consideration the partition proposed by the Officer appointed to make the partition, and, after calling for any further information which he shall deem necessary, and disposing of any objections which shall be taken to the partition, and allotment of public Revenue, as proposed by such Officer, he shall submit a

report to the Commissioner together with such of the papers of the case as shall appear to him essential. He shall also forward a list of the papers not sent. The Collector shall record his opinion whether the proposed partition should be confirmed or modified, and in the latter case, he shall state the nature of the modification which, in his opinion, should be made.

Commissioner may confirm or modify partition subject to appeal to Board of Revenue.

XLIII. The Commissioner shall either uphold the partition proposed by the Collector, or modify the same. The decision of the Commissioner shall not be open to revision by the Civil Court, but shall be subject to appeal to the Board of Revenue. The Commissioner, before coming to a decision, may call for any additional papers, or direct any further inquiry that he shall consider necessary. He may also, if he think proper, direct that, when two or more of the estates into which it is proposed to divide the estate shall consist of the same proportions of the entire estate, the parties entitled thereto shall draw lots for the same before the Collector.

And may direct division by lot under certain circumstances.

Procedure by Collector on receipt of order of Commissioner, or of Board of Revenue on appeal.

XLIV. On the receipt of the order of the Commissioner, or if an appeal be preferred to the Board of Revenue, then, if the order passed on the appeal, the Collector shall cause the same to be published in his office, and in some conspicuous place in each of the estates separately constituted by such order. The Collector shall at the same time specify the date from which each of the estates shall be held to be a separate estate, and shall enter the several estates into which the estate has been divided in the Register of Estates paying Revenue to Government. The Collector shall give the several proprietors possession of the estates allotted to them, and, if necessary, may avail himself of the assistance of the Magistrate in giving possession.

Government may order new allotment of public Revenue among estates formed by partition, in case of fraud or error in original allotment being proved.

XLV. In order to prevent collusion or error in the distribution of the public Revenue assessed upon an estate which may be ordered to be divided into two or more distinct estates, if it shall be proved to the satisfaction of the Government, within twelve years fr[illegible]

and after the date of confirmation of the partition, that the public Revenue was fraudulently or erroneously apportioned at the time of the partition, the Government shall have power to order a new allotment of the public Revenue upon the several estates into which such estate may have been divided, conformably to the principles prescribed in this Act, on an estimate of the gross produce of each estate at the time of the partition, to be made agreeably to the best evidence and information which may be procurable respecting the same. Such order shall not be liable to be contested in the Civil Court. The parties whose estates may be declared to have been under-assessed shall be required to pay to the proprietors of the estates which shall have been over-assessed the sum in which they shall be found to have been over-assessed, and in default of payment, the amount shall be leviable by the process prescribed for the recovery of arrears of rent or Revenue.

Consequence to party having interest in any estate, if he neglect to affirm or establish such interest while the estate is under attachment with a view to partition.

XLVI. If, during the time an estate is under attachment with a view to the partition of the same, any party shall neglect or omit to claim, by a suit, any right or title he may then have to the ownership or occupancy, at a fixed rent, of any land situated in such estate, or any other interest therein, such neglect or omission shall be a valid plea in bar of any suit relating to such right, title, or interest, unless the party can satisfy the Court that there was good and sufficient reason for his neglect or omission to institute the suit at or before such time. Provided that this Section shall not bar any action for arrears of rent, or the enhancement or alteration of rent.

Holder of decree of Civil Court, awarding right to portion of an estate, may apply for partition, and Collector may proceed thereon under Act.

XLVII. Whenever any Court of Civil Judicature shall pass a decree, awarding to any person the proprietary right in a portion of an estate paying Revenue to Government, whether the portion so awarded shall consist of a fractional share in the whole, or a part, of the estate, or of specific lands, the decree-holder may apply to the Collector for a partition of the estate; and on the receipt of such application, the Collector shall proceed thereupon under the provisions of this Act, which are hereby declared applicable to such applications.

XLVIII. If two or more estates, which may have originally

Union in certain cases of severed portions of estates originally undivided.

formed portions of the same estate, shall come into the possession of one person, such person shall be entitled to have such estates united, and to hold them as a single estate; or if two or more persons shall have separate possession of their respective shares of an estate which was originally held as a joint undivided estate, such persons may apply to have their shares united, and to hold them as one estate.

XLIX. The applications for the union of the estates, or of the shares of the estate, as the case may be, shall be made in writing to the Collector of the District in which the estates, or shares of the estate, are situate, and the Collector (provided he see no objection) shall comply with the application, and cause the necessary entries to be made in the records of his Office, reporting the case to the superior Revenue Authorities.

Application for such union how to be made, and how to be dealt with.

L. The provisions of this Act, so far as they relate to the completion and confirmation, or to the staying or quashing, of the partition of an estate, may be applied, at the discretion of the Collector, in all cases of the partition of estates pending at the time of the passing of this Act.

Certain provisions of Act applicable to partition cases pending at the time of its passing.

LI. The provisions of this Act may, in so far as the same are applicable, be applied by order of the Local Government to the partition of any estate held free from the payment of Government Revenue.

Provisions of Act may be applied to partition of estates held free from payment of Revenue.

LII. In the performance of his duties under this Act, the Collector shall be subject to the general direction and control of the Commissioner of the Division, and the Board of Revenue.

Control of Collector's proceedings under Act.

LIII. All orders passed by a Collector under this Act, unless otherwise provided, not being orders or decisions within the meaning of Section IX., shall be open to revision by the superior Revenue Authorities.

Orders of Collector, except in certain cases, open to revision by superior Revenue Authorities.

LIV. The powers vested in a Collector by this Act may be exercised by a Deputy Collector, or other Officer vested with the full powers of a Collector, subject to the control of the Collector of the District.

What other Officers may exercise powers vested in Collector by this Act.

LV. In carrying out the provisions of this Act, the Collector shall exercise the powers described in Regulation II., 1819, Regulation VII., 1822, and Regulation IX. and XIV., 1825. Any Officer appointed to make a partition under this Act, may also exercise the powers described in the foregoing Regulations, so far as the same may be applicable.

Powers to be exercised by Collector, or Officer appointed to make partition.

LVI. If, in any case in which a Collector or other Officer shall exercise jurisdiction under this Act, any person is guilty of the offence of giving or fabricating false evidence, or of forgery, as defined in the Indian Penal Code, or of abetting any of those offences, such Collector or other Officer shall have the same powers in respect of such offence, and of the person charged with committing the same, as are vested by the Code of Criminal Procedure in a Civil Court, when any such offence is committed before or against such Court, or when a document charged to be a forgery is given in evidence in any proceedings in such Court.

Powers of Officers exercising jurisdiction under this Act, with regard to false evidence.

LVII. In the execution of the duties vested in the Board of Revenue by this Act, the Board shall be guided by such orders or instructions as they may from time to time receive from the Local Government, to whom they shall apply in all cases which shall appear to the Board not to have been provided for by the existing law.

Board of Revenue to be guided by instructions of Local Government.

LVIII. Unless there be something in the subject or context repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

Interpretation.

LIX. This Act shall extend only to such parts of the North-Western Provinces of the Presidency of Fort William in Bengal as are subject to the General Regulations of that Presidency; but the Act may be extended, by order of the Local Government, either wholly or in part, to any Non-Regulation Province under such Government.

Territorial scope of Act.

BENGAL AND MADRAS.—NATIVE RELIGIOUS ENDOWMENTS.

ACT NO. XX. OF 1863.

[*Received the assent of the G. G. on the 10th March*, 1863.

Recites the expediency of relieving Boards of Revenue, &c., in Bengal and Madras, from management, &c., of religious endowments.

1. Repeals so much of Bengal Regulation XIX., 1810, and Madras Regulation VII., 1817, as relates to endowments for support of Temples and other religious purposes.

2. Interpretation of words "Civil Court," "Court," and of Number and Gender.

3. Directs Local Government to make the special provision described in the Act to transfer its powers over certain religious endowments to trustee, &c.

4—6. In cases in which religious trusts are vested in trustee, &c., but the endowments are in the possession of Board of Revenue, such property except, &c., shall be transferred to trustee, &c., and (5) gives Civil Court jurisdiction in case of dispute about succession to office of trustee; and (6) such trustee's rights, duties, and responsibilities shall be same as if this Act had not passed.

7—9. Directs that in every Division a committee or committees shall be appointed to perform duties now performed by Board of Revenue, &c.; (8) committee to be composed of persons likely to be agreeable to the persons interested in the Temple, &c.; who (9) shall hold office for life, unless removed by Civil Court.

10, 11. Directs how vacancies in committees are to be filled up; and (11) that no trustee, &c., shall be a committee man.

12. On appointment of committee, Board, &c., to transfer property.

13—18. Makes it the duty of trustee, &c., to keep accounts, &c.; and (14) entitles any person interested pecuniarily; or (15) otherwise to sue trustee, &c.; but (18) only by leave of Court; and (16) such suit may be referred to arbitrators; or (17) dispute may be referred under Code of Civil Procedure.

19. Court may order trustees to file accounts.

20. Civil suit not to prevent proceedings for criminal breach of trust.

21. Limits application of Act to such portions of property held for religious and secular purposes, as applies to the former, and provides for management of the latter by Board, &c.

22, 23. Prohibits, except as provided by this Act, Government superintendence of property held for religious endowment; and (23) saves the Regulations mentioned in Section 1, except as to Mosques, &c.

24. Interprets the word "India."

An Act to enable the Government to divest itself of the management of Religious Endowments.

Preamble.

Whereas it is expedient to relieve the Boards of Revenue, and the Local Agents, in the Presidency of Fort William in Bengal, and the Presidency of Fort St. George, from the duties imposed on them by Regulation XIX., 1810, of the Bengal Code (*for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindoo Temples, Colleges, and other purposes; for the maintenance and repair of Bridges, Serays, Kuttras, and other public buildings; and for the custody and disposal of Nuzzool Property or Escheats*), and Regulation VII., 1817, of the Madras Code (*for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindoo Temples, and Colleges, or other public purposes; for the maintenance and repair of Bridges, Choultries, or Chuttrums, and other public buildings; and for the custody and disposal of Escheats*), so far as those duties embrace the superintendence of lands granted for the support of Mosques or Hindoo Temples, and for other religious uses; the appropriation of endowments made for the maintenance of such religious establishments; the repair and preservation of buildings connected therewith, and the appointment of Trustees or Managers thereof; or involve any connexion with the management of such religious establishments: and whereas it is expedient for that purpose to repeal so much of Regulation XIX., 1810, of the Bengal Code, and Regulation VII., 1817, of the Madras Code, as relates to endowments for the support of Mosques, Hindoo Temples, or other religious purposes, it is enacted as follows:

Regulations repealed.

I. So much of Regulation XIX., 1810, of the Bengal Code, and so much of Regulation VII., 1817, of the Madras Code, as relates to endowments for the support of Mosques, Hindoo Temples, or other religious purposes, are repealed.

Number.

II. In this Act words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Gender.

Words importing the masculine gender shall include females.

"Civil Court" and "Court."

The words "Civil Court" and "Court" shall mean the Principal Court of Original Civil Jurisdiction

in the District in which the Mosque, Temple, or religious establishment is situate, relating to which, or to the endowment whereof, any suit shall be instituted or application made under the provisions of this Act.

Local Government to make special provision respecting Mosques, &c., in certain cases.

III. In the case of every Mosque, Temple, or other religious establishment to which the provisions of either of the Regulations specified in Section I, are applicable, and the nomination of the Trustee, Manager, or Superintendent whereof, at the time of the passing of this Act, is vested in, or may be exercised by, the Government, or any public Officer, or in which the nomination of such Trustee, Manager, or Superintendent shall be subject to the confirmation of the Government, or any public Officer, the Local Government shall, as soon as possible after the passing of this Act, make special provision as hereinafter provided.

Transfer to independent Trustees, &c., of all Property belonging to their Trusts, &c., remaining in charge of Revenue Board or others.

IV. In the case of every such Mosque, Temple or other religious establishment which, at the time of the passing of this Act, shall be under the management of any Trustee, Manager, or Superintendent, whose nomination shall not vest in, nor be exercised by, nor be subject to the confirmation of, the Government, or any public Officer, the Local Government shall, as soon as possible after the passing of this Act, transfer to such Trustee, Manager, or Superintendent, all the landed or other property which, at the time of the passing of this Act, shall be under the superintendence or in the possession of the Board of Revenue, or any Local Agent, and belonging to such Mosque, Temple, or other religious establishment, except such property as is hereinafter provided; and the powers and the responsibilites of the Board of Revenue, and the Local Agents, in respect to such Mosque, Temple, or other religious establishment, and to all land and other property so transferred, except as regards acts done and liabilities incurred by the said Board of Revenue, or any Local Agent, previous to such transfer, shall cease and determine.

Procedure in case of dispute as to right of succession to vacated Trusteeship, &c.

V. Whenever, from any cause, a vacancy shall occur in the office of any Trustee, Manager, or Superintendent, to whom any property shall have been transferred under the last preceding Section,

and any dispute shall arise respecting the right of succession to such office, it shall be lawful for any person interested in the Mosque, Temple, or religious establishment, to which such property shall belong, or in the performance of the worship or of the service thereof, or the trusts relating thereto, to apply to the Civil Court to appoint a Manager of such Mosque, Temple, or other religious establishment, and thereupon such Court may appoint such Manager to act until some other person shall by suit have established his right of succession to such office. The Manager so appointed by the Civil Court shall have, and shall exercise, all the powers which, under this or any other Act, the former Trustee, Manager, or Superintendent, in whose place such Manager is appointed by the Court, had or could exercise in relation to such Mosque, Temple, or religious establishment, or the property belonging thereto.

Rights, powers, and responsibilities of Trustees, &c., to whom any charge shall be transferred.

VI. The rights, powers, and responsibilities of every Trustee, Manager, or Superintendent, to whom the land and other property of any Mosque, Temple, or other religous establishment is transferred in the manner prescribed in Section IV. of this Act, as well as the conditions of their appointment, election, and removal, shall be the same as if this Act had not been passed, except in respect of the liability to be sued under this Act, and except in respect of the authority of the Board of Revenue, and Local Agents, given by the Regulations hereby repealed, over such Mosque, Temple, or religious establishment, and over such Trustee, Manager, or Superintendent, which authority is hereby determined and repealed. All the powers which might be exercised by any Board, or Local Agent, for the recovery of the rent of land or other property transferred under the said Section IV. of this Act may, from the date of such transfer, be exercised by any Trustee, Manager, or Superintendent, to whom such transfer is made.

Appointment of committees.

VII. In all cases described in Section III. of this Act, the Local Government shall once for all appoint one or more Committees in every Division, or District, to take the place, and to exercise the powers, of the Board of Revenue and the Local Agents under the

Regulations hereby repealed. Such Committee shall consist of three or more persons, and shall perform all the duties imposed on such Board and Local Agents, except in respect of any property which is specially provided for under Section XXI. of this Act.

Provision as to qualifications for member of such Committee.

VIII. The Members of the said Committee shall be appointed from among persons professing the religion for the purpose of which the Mosque, Temple, or other religious establishment, was founded, or is now maintained, and in accordance, so far as can be ascertained, with the general wishes of those who are interested in the maintenance of such Mosque, Temple, or other religious establishment. The appointment of the Committee shall be notified in the Official Gazette. In order to ascertain the general wishes of such persons in respect of such appointment, the Local Government may cause an election to be held, under such rules (not inconsistent with the provisions of this Act) as shall be framed by such Local Government.

Every Member to be appointed for life, unless removed for misconduct, &c.

IX. Every Member of a Committee appointed as above shall hold his office for life, unless removed for misconduct or unfitness, and no such Member shall be removed except by an order of the Civil Court as hereinafter provided.

Provision for filling up vacancies.

X. Whenever any vacancy shall occur among the Members of a Committee appointed as above, a new Member shall be elected to fill the vacancy, by the persons interested as above provided. The remaining Members of the Committee shall, as soon as possible, give public notice of such vacancy, and shall fix a day, which shall not be later than three months from the date of such vacancy, for an election of a new Member by the persons interested as above provided, under rules for elections which shall be framed by the Local Government, and whoever shall be then elected, under the said rules, shall be a Member of the Committee to fill such vacancy. If any vacancy as aforesaid shall not be filled up by such election as aforesaid within three months after it has occurred, the Civil Court, on the application of any person whatever, may appoint a person to fill the vacancy, or may order that the vacancy be forthwith filled up by the

remaining Members of the Committee, with which order it shall then be the duty of such remaining Members to comply, and if this order be not complied with, the Civil Court may appoint a Member to fill the said vacancy.

No Member of a Committee to be Trustee, &c., of the Mosque, &c., under charge of such Committee.

XI. No Member of a Committee appointed under this Act shall be capable of being, or shall act, also as a Trustee, Manager, or Superintendent of the Mosque, Temple or other religious establishment, for the management of which such Committee shall have been appointed.

On appointment on Committee, Board and Local Agents to transfer property.

XII. Immediately on the appointment of a Committee, as above provided, for the superintendence of any such Mosque, Temple, or religious establishment, and for the management of its affairs, the Board of Revenue, or the Local Agents acting under the authority of the said Board, shall transfer to such Committee all landed or other property which at the time of appointment shall be under the superintendence, or in the possession, of the said Board or Local Agents, and belonging to the said religious establishment, except as is hereinafter provided for, and thereupon the powers and responsibilities of the Board and the Local Agents, in respect to such Mosque, Temple, or religious establishment, and to all land and other property so transferred, except as above, and except as regards acts done and liabilities incurred by the said Board or Agents previous to such transfer, shall cease and determine. All the powers which might be exercised by any Board or Local Agent for the recovery of the rent of land or other property transferred under this Section, may from the date of such transfer be exercised by such Committee to whom such transfer is made.

Accounts of receipts and disbursements.

XIII. It shall be the duty of every Trustee, Manager, and Superintendent of a Mosque, Temple, or religious establishment, to which the provisions of this Act shall apply, to keep regular accounts of his receipts and disbursements, in respect of the endowments and expenses of such Mosque, Temple, or religious establishment; and it shall be the duty of every Committee of Management, appointed or acting under the authority of this Act, to require from every Trustee, Manager, and Superintendent of such Mosque, Temple,

or other religious establishment, the production of such regular accounts of such receipts and disbursements at least once in every year, and every such Committee of Management shall themselves keep such accounts thereof.

Any person interested may sue in case of breach of trust, &c.

XIV. Any person or persons interested in any Mosque, Temple, or religious establishment, or in the performance of the worship or of the service thereof, or the Trusts relating thereto, may, without joining as plaintiff any of the other persons interested therein, sue before the Civil Court the Trustee, Manager, or Superintendent of such Mosque, Temple, or religious establishment, or the Member of any Committee appointed under this Act, for any misfeasance, breach of trust, or neglect of duty, committed by such Trustee, Manager, Superintendent, or Member of such Committee, in respect of the Trusts vested in, or confided to, them respectively, and the Civil Court may direct the specific performance of any act by such Trustee, Manager, Superintendent, or Member of a Committee, and may decree damages and costs against such Trustee, Manager, Superintendent or Member of a Committee, and may also direct the removal of such Trustee, Manager, Superintendent, or Member of a Committee.

Nature of interest entitling a person to sue.

XV. The interest required in order to entitle a person to sue under the last preceding Section need not be a pecuniary, or a direct or immediate, interest, or such an interest as would entitle the person suing to take any part in the management or superintendence of the Trusts. Any person having a right of attendance, or having been in the habit of attending at the performance of the worship or service of any Mosque, Temple, or religious establishment, or of partaking in the benefit of any distribution of alms, shall be deemed to be a person interested within the meaning of the last preceding Section.

Reference to arbitrators.

XVI. In any suit or proceeding instituted under this Act, it shall be lawful for the Court before which such suit or proceeding is pending to order any matter in difference in such suit to be referred for decision to one or more arbitrators. Whenever any such order shall be made, the provisions of Chapter VI. of the Code of Civil

Procedure shall in all respects apply to such order and arbitration, in the same manner as if such order had been made on the application of the parties under Section 312 of the said Code

Reference under section 312 of Civil Procedure Code.

XVII. Nothing in the last preceding Section shall prevent the parties from applying to the Court, or the Court from making the order of reference, under the said Section 312 of the said Code of Civil Procedure.

Preliminary application for leave to institute suit.

XVIII. No suit shall be entertained under this Act without a preliminary application being first made to the Court for leave to institute such suit. The application may be made upon unstamped paper. The Court, on the perusal of the application, shall determine whether there are sufficient *primâ facie* grounds for the institution of a suit, and if in the judgment of the Court there are such grounds, leave shall be given for its institution. In calculating the costs at the termination of the suit, the Stamp Duty on the preliminary application shall be estimated, and shall be added to the costs of the suit. If the Court shall be of opinion that the suit has been for the benefit of the Trust, and that no party to the suit is in fault, the Court may order costs, or such portion as it may consider just, to be paid out of the estate.

Costs.

Court may require accounts of Trusts to be filed.

XIX. Before giving leave for institution of a suit, or after leave has been given, before any proceeding is taken, or at any time when the suit is pending, the Court may order the Trustee, Manager, or Superintendent, or any Member of a Committee, as the case may be, to file in Court the accounts of the Trust, or such part thereof as to the Court may seem necessary.

No Civil Suit to bar proceedings for Criminal Breach of Trust.

XX. No suit or proceeding before any Civil Court under the preceding Sections, shall in any way affect or interfere with any proceeding in a Criminal Court for Criminal Breach of Trust.

Provisions for cases in which the endowments are partly for religious and partly for secular purposes.

XXI. In any case in which any land or other property has been granted for the support of an establishment partly of a religious and partly of a secular character, or in which the endowment made for the support of an establishment

is appropriated partly to religious and partly to secular uses, the Board of Revenue, before transferring to any Trustee, Manager, or Superintendent, or to any Committee of Management appointed under this Act, shall determine what portion, if any, of the said land or other property shall remain under the superintendence of the said Board for application to secular uses, and what portion shall be transferred to the superintendence of the Trustee, Manager, or Superintendent, or of the Committee, and also what annual amount, if any, shall be charged on the land or other property which may be so transferred to the superintendence of the said Trustee, Manager, or Superintendent, or of the Committee, and made payable to the said Board or to the Local Agents, for secular uses as aforesaid. In every such case the provisions of this Act shall take effect only in respect to such land and other property as may be so transferred.

Government not to hold charge henceforth of property for support of any Mosque, Temple, &c.

XXII. Except as provided in this Act, it shall not be lawful, after the passing of this Act, for any Government in India, or for any Officer of any Government in his official character, to undertake or resume the superintendence of any land or other property granted for the support of, or otherwise belonging to, any Mosque, Temple, or other religious establishment, or to take any part in the management or appropriation of any endowment made for the maintenance of any such Mosque, Temple, or other establishment, or to nominate or appoint any Trustee, Manager, or Superintendent thereof, or to be in any way concerned therewith.

Effect of Act in respect of Regulations therein mentioned and of buildings of antiquity, &c.

XXIII. Nothing in this Act shall be held to affect the provisions of the Regulations mentioned in this Act, except in so far as they relate to Mosques, Hindoo Temples, and other religious establishments; or to prevent the Government from taking such steps as it may deem necessary, under the provisions of the said Regulations, to prevent injury to and preserve buildings remarkable for their antiquity, or for their historical or architectural value, or required for the convenience of the public.

XXIV. The word "India" in this Act shall denote the

"India." territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic., c. 106, entitled "An Act for the better Government of India."

BRITISH BURMAH.—RECORDERS' COURTS, SMALL CAUSE COURTS.

ACT No. XXI. OF 1863.

[*Received the assent of the G. G. on the 10th March*, 1863.

Recites Resolution of G. G. in C., 31st January, 1862, for establishment of a Recorder and of Small Cause Courts.

1—9. Authorizes G. G. in C. to establish a Recorder's Court for Akyab, Rangoon, and Moulmein; (2) Recorder to be a barrister of 5 years' standing; (3) who is to make solemn declaration on entering office; or (4) Recorder may be appointed for each town; and (5) while only one, he to make circuit; and (6, 7) notify time and place of holding courts; and (8) may hold other courts than those notified; and (9) same if only one Recorder for two courts.

10, 11. Recorder to exercise jurisdiction within limits to be fixed by Chief Commissioner, &c; and (11) have cognizance of suits respecting land situate within local limits, and causes of action arising, or if defendant resides, &c., within local limits.

12, 13. Empowers Chief Commissioner to transfer to Recorders' Courts suit from any other Courts; and (13) ordinarily Recorder is to try a suit only in the Court in which it is instituted or to which transferred, &c., except by consent of parties.

14, 15. Directs each of the Courts to have a seal, and how it shall be kept; and (15) empowers the Recorder to appoint clerks and ministerial officers.

16—18. Only licensed advocates to act, and how to be admitted, except advocates and vakeels of High Court, and saves right of parties to act for themselves; and (17) Recorder may for sufficient reason withdraw license of advocate; and (18) fees of advocate, whether licensed or not, to be subject to taxation of Recorder.

19, 20. Empowers Recorder to make rules for service of process, &c.; (20) save as otherwise provided by this Act. Procedure of Recorders' Courts to be that of Act VIII., 1859.

21. The law of the Court to be that of the Calcutta High Court, except as to suits against Natives, relating to marriage, succession, and inheritance.

22—26. Court may submit to High Court statement of question of law, &c., for its opinion; proceeding (23) in meantime with suit, but staying execution; and (24) case submitted to be decided by two or more Judges; and (25) be argued by counsel, and judgment to be transmitted to Recorder; and (26) costs of case to be costs in the cause.

27, 28. Gives an appeal from Recorder to High Court in cases of value between 3,000 and 10,000 Rupees; and (28) may grant new trial in suits relating to land within three months; and in other suits within thirty days; saving also power to review on terms of giving security at discretion of Recorder.

29. Gives the Recorder exclusive jurisdiction in cases arising under Acts XIX., 1841; XXXV., 1858; XL., 1858; and IX., 1861; or Act XXVII., 1860; his order not to be subject to appeal, &c.

30—36. Authorizes the Recorder to constitute one or more assessors of the Court; and (31) the G. G. in C. to appoint a Registrar; and (32) defines some of his duties; and (33) gives him specified duties as to presentation of plaints; and (34) as to applications for execution; and (35) gives him in certain cases powers of Small Cause Court, subject to the control of the Recorder; and G. G. in C. may constitute him full Small Cause Court; in such suits (30) Registrar is to proceed according to Act XLII., 1860, &c.; but Recorder may transfer case to his own file.

37. No appeal to lie from Registrar, but he may state case for opinion of Recorder.

38. Empowers Recorder to refer suits of value not exceeding 100 rupees, though not cognizable under Act XLII., 1860, and in such suits an appeal to lie to Recorder, whose decision shall be final, or who may state case to High Court.

39. In all suits in which the matter in issue is of the value of 10,000 Rupees or upwards, an appeal is to lie to H. M. in Council.

40—42. Gives the Recorder the powers of a Court of Session as defined in Code of Criminal Procedure, but excepts British subjects in capital offences; but (41) in other cases British subjects may be committed for trial by Recorder; (42) proceedings in his Court to be according to Code of Criminal Procedure.

43. Directs that no sentence of death shall be carried out, without confirmation by Chief Commissioner, who may commute it.

44, 45. Directs that no appeal shall lie from Recorder in criminal case, but Recorder may reserve points for opinion of High Court; and (45) on reserved case High Court may review, if Advocate General certifies his opinion that there is an error, &c.

46. Extends Stamp Duties to Recorders' Courts.

47, 48. Empowers the Commissioner of the Divison to sit with the Recorder in cases arising within his Division; and (48) in absence of Recorder, may, in such cases, exercise all the powers of Recorder.

49. Directs the Recorder to keep register book, &c.

50. Interprets word "Barrister."

An Act to constitute the Recorders' Courts for the Towns of Akyab, Rangoon, and Moulmein, in British Burmah; and to establish Court of Small Causes in the said Towns.

Preamble.

Whereas the Resolution of the Governor General in Council, dated the 31st January, 1862, declares that, instead of a Judicial Commissioner for the whole Province of British Burmah, whose ordinary business can well be undertaken by the Chief Commissioner, and who, as Judge of a Special Court sitting at the Head Quarters of each Division, could not possibly dispose of the Causes arising at each place in a manner that would satisfy the suitors, or be consistent with the prompt and regular administration of Justice, there shall be established at Rangoon and Moulmein a Court to be presided over by a Barrister or Advocate of not less than five years' standing, with full power of Civil and Criminal Jurisdiction, analogous to those now exercised by the Recorders of Prince of Wales' Island and Singapore, with the exception of the power to try cases in which European British subjects are charged with the capital offences: and whereas it is expedient to make provision for the establishment of such Court, and of a similar Court for the Town of Akyab; and also for the establishment of a Court of Small Causes in each of the said Towns of Akyab, Rangoon, and Moulmein, and to prescribe the Procedure for the said Courts, respectively, it is enacted as follows:

Governor General may establish Courts for certain Towns in British Burmah.

I. It shall be lawful for the Governor General in Council to establish Courts of Judicature for the Towns of Akyab, Rangoon, and Moulmein, in British Burmah, or for any of the said Towns, which Courts, when so established, shall be called respectively, the "Court of the Recorder of Akyab," the "Court of the Recorder of Rangoon," and the "Court of the Recorder of Moulmein." Such Courts shall be Courts of Record.

Designation, appointment, &c., of Judges of such Courts.

II. The said Courts, respectively, shall be held before a Judge who shall be called "The Recorder" thereof, and who shall be appointed by the Governor General in Council, and shall be a Barrister of not less than five years' standing. Every Recorder appointed under this Act shall hold his Office during the pleasure of the Governor General in Council.

Declaration to be made by Recorder.

III. Previously to entering upon the execution of the duties of his Office, every Recorder appointed under this Act shall make or subscribe the following

declaration before such Authority or person as the Governor General in Council may commission to receive the same:—

"I, A. B., appointed Recorder of [ ] do solemnly declare that I will faithfully perform the duties of my Office to the best of my ability, knowledge, and judgment."

Governor General may appoint one Recorder only, or more.

IV. The Governor General in Council may appoint only one Recorder to be the Recorder of the said three Courts, or he may from time to time appoint a separate Recorder for any one, or for any two, of the said Courts.

If only one Recorder, how Court shall be held.

V. So long as there shall be only one Recorder of the said three Courts, such Recorder shall hold his Court at each of the said three Towns of Akyab, Rangoon, and Moulmein, at stated periods. He shall hold his Court in Rangoon at such times as may be necessary; in Moulmein at least once in every three months; and in Akyab at least once in every four months.

Notification by Recorder, as to time and place of holding Court.

VI. The Recorder shall, on or before the 1st day of January in each and every year, or at such other convenient times as the Chief Commissioner of British Burmah shall direct, notify in the Official Gazettes of the Towns in which the Court is to be held, the days on which he intends to hold his Court at the said Towns, respectively, during the then next ensuing twelve months: and a copy of such Notification shall be stuck up in a conspicuous part of the Court Houses in the said Towns respectively.

Procedure in case of Recorder being unable to hold Court as notified.

VII. If the Recorder shall be unable to hold his Court at the time and place fixed in any Notification issued under the last preceding Section, he shall fix another period, for holding his Court at such place, and shall publish notice of the same in the same manner, so far as circumstances will permit, in which a Notification under the said Section is directed to be published.

Recorder may hold Court at other than notified times.

VIII. Notwithstanding anything in Sections VI. and VII. of this Act contained, it shall be lawful for the Recorder to hold his Court at times other than those notified, as provided in the said Sections, when for any good and sufficient reason it shall appear to him necessary and proper to do so.

IX. Whenever there shall be one Recorder for any two only of the said three Courts, the provisions contained in Sections VI., VII., and VIII. of this Act shall be applied, so far as the same may be applicable, in respect of the sittings to be held by such Recorder within the Towns of the Courts of which he is Recorder.

Sections VI. to VIII., how to be applied when there is one Recorder for two Courts.

X. The Recorders appointed under this Act shall have and exercise Civil Jurisdiction within such local limits, in the said Towns of which they are respectively the Recorders and in the neighbourhood thereof, as may from time to time be fixed by the Chief Commissioner of British Burmah, with the approval of the Governor General in Council; and the limits so fixed shall be published in the Official Gazettes of the said Towns. Provided that it shall be lawful for the said Chief Commissioner, with such approval as aforesaid, as often as he shall think proper, to vary or alter the limits so fixed; and, save as in this Act provided, no Court other than the Recorder's Court shall have or exercise any Civil Jurisdiction whatever, within the limits for the time being fixed as aforesaid.

Civil Jurisdiction of Recorder.

Proviso as to alteration of local limits.

XI. The Recorders appointed under this Act shall receive, try, and determine suits of every description, if in the case of suits for land or other immoveable property such land or property shall be situate, or if in all other cases the cause of action shall have arisen, or the defendant at the time of the commencement of the suit shall dwell, or carry on business, or personally work for gain, within the local limits of the ordinary Jurisdiction of their respective Courts. Provided that the Recorders shall not take cognizance of any suit, the cognizance of which, by the ordinary Civil Courts in British India not established by Royal Charter, is barred by any Act of Parliament, or by any Regulation or Act of the Governor General of India in Council.

Suits cognizable by Recorders.

Proviso.

XII. It shall be lawful for the Chief Commissioner to direct the transfer to any Recorder's Court, of any case which shall have been instituted in any Court in British Burmah other than a Recorder's Court. Every case so

Transfer of cases from other Courts to Recorder's Court.

Such cases how to be dealt with.

transferred shall be tried and determined by the Recorder to whose Court it is transferred, in the same manner, and under the same rules as to procedure, and in all other respects as if the Recorder had originally had Jurisdiction in the case, and the case had originally been instituted before him.

Rule as to trial of suits by Recorder having Jurisdiction in more than one Court.

XIII. A Recorder, who is the Recorder of more Courts than one, shall, while sitting in any one of the Courts of which he is Recorder, ordinarily try no suits except such as shall have been instituted in such Court, or shall have been transferred to it by the Chief Commissioner as hereinbefore provided; but such Recorder may, if he think proper, try any suit instituted in any other of the said Courts of which he is Recorder, if the parties thereto shall join in an application to him (which shall be in writing, signed by all the parties to the suit or their agents) so to try the same.

Seal of Courts. Use and custody of same.

XIV. A separate seal shall be made under the direction of the Governor General in Council for each of the said Courts, and all summonses, orders, and other process issuing out of the said Courts, respectively, shall be sealed or stamped with the seal of the Court issuing the same. The said seal shall be delivered to, and kept in the custody of, the Recorder; but during any absence of the Recorder, or in case of the vacancy of the Office of Recorder, the same shall be delivered to, and kept in the custody of, the Registrar of the Court appointed as is hereinafter provided; and if there be no Registrar, then it shall be delivered to and kept in the custody of the Deputy Commissioner.

Appointment and removal of Ministerial Officers.

XV. It shall be lawful for the Recorder of any Court or Courts established under this Act, from time to time, and subject to any rules and restrictions which may be prescribed by the Governor General in Council, to appoint such and so many Clerks and other Ministerial Officers as shall be found necessary for the administration of Justice by the said Recorder, in such Court or Courts respectively, and the due execution of the powers and authorities given to him by this Act; and every Clerk and Officer appointed as aforesaid shall be liable to dismissal by order of the Recorder of the Court to which he is appointed;

provided that no person shall be removed from any Office, the salary of which is one hundred Rupees per mensem or upwards without the sanction of the Chief Commissioner.

Licensing of Advocates, and rules regarding qualifications and admission.

XVI. No person shall be permitted to appear or act as the Advocate of any suitor in any Court held under this Act, in any action or suit, or touching any matter whatever, unless such person shall have been previously licensed by the Recorder of such Court, to act for the suitors of such Court generally, or specially for the particular occasion; and it shall be lawful for the Recorder of every Court held under this Act, to make rules for the qualifications and admission of proper persons to act as Advocates in such Court. Provided that

Saving of agent for Secretary of State, &c.

nothing in this Section contained shall be deemed to prevent any person from appearing or acting as the agent for the Secretary of State for India in Council, or to prevent any suitor from appearing, pleading, or acting, on his own behalf, or on behalf of a co-suitor.

And of Advocates, &c., of High Courts.

Provided also that any person, who for the time being is an Advocate, Vakeel, or Attorney-at-law of any of the High Courts of Judicature in India, shall be entitled without any license to act as an Advocate for any suitor in any of the said Courts; and that any person for the time being licensed to act generally in any one of the said Courts, shall without further license be also entitled to act generally in any other of the said Courts.

License may be withdrawn.

XVII. The Recorder of any Court may, for any sufficient reason, withdraw or vacate any license which shall at any time be granted by such Recorder to any person, to Act generally or specially as an Advocate under this Act.

Fees of Advocates, &c., subject to taxation.

XVIII. The fees to be received by any Advocate, whether general or special, licensed under this Act, or entitled to act as an Advocate for another person in any of the said Courts without a license, under Section XVI. of this Act, shall at all times be subject to the control and taxation of the Recorder of the Court having Jurisdiction in the case in respect of which such fees are payable,

and no fees shall be recoverable by any Advocates except such fees as shall have been allowed by the Recorder on taxation.

Rules for service and execution of process, and table of fees for same.

XIX. It shall be lawful for the Recorder of any Court or Courts established under this Act, to make and issue rules to regulate the service and execution of the processes of the Court or Courts, within the territorial limits of his Jurisdiction, and also to settle a table of fees to be allowed to the persons employed in such service or execution, and from time to time to alter any such rule or table, and the rules so made and the tables so issued shall be used and observed in the said Court or Courts; provided that such rules and tables be not inconsistent with the provisions of any law in force, and shall, before they are issued, have received the sanction of the Chief Commissioner. All such rules and tables shall be published in the Official Gazettes of the said Towns, and shall thenceforth have the force of law until repealed or over-ruled by any Act of the Legislature, or by any rule or table subsequently issued and published with the sanction and in the manner aforesaid.

Publication of same.

Proceedings in Civil suits how to be regulated.

XX. Save as in this Act otherwise provided, the proceedings in Civil suits of every description between party and party brought in any Court established under this Act, shall be regulated by Act VIII. of 1859 (*the Code of Civil Procedure*), as amended by Act XXIII. of 1861, and by any other Act or Acts that may hereafter be passed for that purpose.

Law as administered in Calcutta High Court, in its Ordinary Original Civil Jurisdiction to obtain in all suits.

XXI. In all suits cognizable by any Court held under this Act, all questions as well of fact as of law or equity shall be dealt with and determined according to the law administered by the High Court of Judicature at Fort William in Bengal, in the exercise of its Ordinary Original Civil Jurisdiction. Provided that this Section shall not apply to any case heard and determined by any Court held under this Act, in which a native of British India is a defendant, and in which any question relating to marriage, inheritance, or succession shall be involved; but every such case, in so far as such question is concerned, shall be determined by the law or

Saving of certain cases.

usage which would have been applied thereto, if such question had arisen in any other Court in British Burmah than a Court held under this Act.

In case of doubt as to certain questions, statement of case may be submitted for decision of High Court.

XXII. If in any suit, any question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, shall arise, on which the Recorder shall entertain any doubt, the Recorder may, either of his own motion, or on the application of either of the parties to the suit, draw up a statement of the case, and submit such statement, with his own opinion, for the decision of the High Court of Judicature at Fort William in Bengal.

And decree may be passed contingent thereon; but, pending receipt, execution not to issue.

XXIII. The Recorder may proceed in the case, notwithstanding a reference to the said High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the High Court, until the receipt of the order of that Court.

Full bench of High Court to deal with cases referred.

XXIV. Cases referred for the opinion of the High Court shall be dealt with by a bench of two or more Judges of that Court.

And parties may appear in person, or by Advocate, &c. Transmission of judgment of High Court, and proceeding thereupon.

XXV. The parties to the case may appear and be heard in the High Court in person, or by an Advocate or Pleader; and the High Court, when it has heard and considered the case, shall transmit a copy of its judgment, under the seal of the Court and the signature of the proper Officer of the Court, to the Recorder, who shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

Costs of reference to High Court.

XXVI. Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

Appeal to High Court in certain cases.

XXVII. In all suits heard and determined by a Recorder under this Act, in which the amount or value of the suit shall exceed Rupees three thousand, and be less than Rupees ten thousand, an appeal shall lie to the

High Court of Judicature at Fort William in Bengal, subject to the rules contained in the said Code of Civil Procedure regarding regular appeals.

Grant of new trial on application within given time.

XXVIII. It shall be competent to the Recorder, if he shall think fit, to grant a new trial in any suit tried by him, if applied for within three months from the date of the decision, if the suit relate to any land or other immoveable property; and in all other cases if applied for within thirty days from the date of the decision. Provided that nothing hereinbefore contained shall interfere with the power of the Recorder to allow a review of judgment, under the Code of Civil Procedure, if such review be applied for within the period allowed by the said Code for making such applications. Provided also that, in any case in which the Recorder may think it necessary to do so, he may, before granting a new trial or a review, require the party applying for the same to give sufficient security for the due compliance with the terms of the decree or order which it is sought to set aside or review.

And review of judgment.

Security from application for either.

Recorder may receive and dispose of all cases under certain Acts, subject to provisions of same as to Jurisdiction.

XXIX. All cases and proceedings arising under Act XIX. of 1841 (*for the protection of moveable and immoveable property against wrongful possession in cases of successions*), Act XXXV. of 1858 (*to make better provision for the care of the Estates of Lunatics not subject to the Jurisdiction of the Supreme Courts of Judicature*), Act XL. of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*), as amended by Act IX. of 1861 (*to amend the law relating to Minors*), or Act XXVII. of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), may be received and disposed of by the Recorder of any Court established under this Act, subject always to all the rules and provisions as to Jurisdiction and otherwise in the said Acts contained respectively. Orders passed by the Recorder in cases arising under the said

And his orders in such cases not open to appeal.

Acts shall not be open to appeal, but the parties shall be at liberty to contest such orders in a regular suit. No Court other than the Recorder's Court shall, within the local limits of the Jurisdiction of such Recorder's Court, receive or deal with any case or proceeding arising under any of the Acts mentioned in this Section.

No other Court to deal therewith, within the jurisdiction of Recorder.

XXX. For the trial of Civil suits under this Act, the Recorder may constitute one or more persons Assessor or Assessors of the Court. Such person or persons shall attend during the trial of the suit, and shall deliver his or their opinion or opinions in writing, to be recorded on the proceedings. But the decision of the case shall rest with the Recorder. No Officer of the Recorder's Court shall be appointed an Assessor under this Section, but this prohibition shall not extend to any other public Officer.

Assessors in Civil suits.

XXXI. It shall be lawful for the Governor General in Council to appoint, to each or any of the Recorders' Courts established under this Act, an Officer who shall be called the Registrar of the Court to which he shall be appointed.

Appointment of Registrar.

XXXII. The Registrar of the Recorder's Court shall be the Chief Ministerial Officer of the Court, and shall, subject to the provisions in the next following Section contained, receive all plaints presented to the Court; and in the absence of the Recorder, shall issue notice of suit to the defendants; receive any documents which the parties may wish to put in; and issue process for the attendance of their witnesses; he shall also keep lists of all causes coming on for trial, and shall fix such days for their being heard respectively, as may seem to him fit, having regard to the period appointed for the Recorder's sittings.

Duties of Registrar.

XXXIII. If the Registrar shall be of opinion that any plaint presented to the Court is defective in any of the particulars mentioned in Section 28, Section 29, Section 30, Section 31, or Section 32, of the Code of Civil Procedure, he shall not reject the plaint, but shall point out to the plaintiff wherein the plaint is defective, and shall, with as little delay as possible, forward the plaint to the

Procedure in case of plaint being considered defective in certain particulars.

Recorder of the Court for his orders, together with any statement which the plaintiff may think proper to make; and such plaint shall be dealt with as the Recorder shall order.

Proviso.

Provided always that, if the defect in the plaint is capable of being cured under any of the said Sections, and the plaintiff shall be willing to amend it, it shall not be necessary for the Registrar to send the plaint to the Recorder, but such amendment may thereupon be made.

XXXIV. The Registrar shall also receive applications for the execution of decrees passed by the Recorder of the Court of which he is the Registrar, and, subject to any orders which he may receive from the Recorder, shall execute such decrees in the same manner as the Recorder may execute them. No appeal shall lie from any order passed by the Registrar under this Section; but the Recorder may, of his own motion, reverse or modify any such order whenever he shall think it necessary to do so.

Execution of decrees by Registrar.

XXXV. The Registrar shall have the powers of a Small Cause Court Judge in suits of the nature of those described in Act XLII. of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), arising within the limits of the jurisdiction of the Court of which he is the Registrar, provided that the amount of value of the claim shall not exceed two hundred Rupees; but he shall exercise such powers subject to the general control of the Recorder. The Governor General in Council may invest any Registrar, appointed under this Act, with Jurisdiction to hear and determine suits of the nature cognizable by him as a Small Cause Court Judge under this Section, in which the amount or value of the claim does not exceed five hundred Rupees.

Registrar to have powers of Small Cause Court Judge in certain cases.

And may be invested by Governor General with higher powers.

XXXVI. The suits cognizable by the Registrar under the last preceding Section shall be set down for hearing before such Registrar, and he shall hear and determine such suits, and execute the decrees made therein, in such manner as is prescribed in the said Act XLII. of 1860; and subject

Suits cognizable by Registrar how to be heard, &c.

to such rules, as to procedure and otherwise, in all respects, as are in the said Act contained. Provided that the Recorder, whenever he thinks proper, may transfer to his own file any suits on the file of the Registrar, and may hear and determine the same, subject to the rules as to procedure and otherwise hereinbefore mentioned.

Transfer from Registrar's to Recorder's File.

XXXVII. No appeal shall lie from any order or decision made or passed by the Registrar, in any case heard or disposed of by him under the last preceding Section; but in any case in which the Registrar shall entertain any doubt upon any question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, he shall be at liberty to state a case for the opinion of the Recorder, in like manner as the Recorder may, under Section XXII. of this Act, state a case for the opinion of the High Court of Judicature at Fort William in Bengal; and all the rules and provisions hereinbefore contained, relative to the stating of a case by the Recorder shall apply *mutatis mutandis* to the stating of a case by a Registrar, so far as the same are applicable.

No appeal from decision of Registrar under last Section; but in case of doubt, statement may be submitted for opinion of Recorder.

Rules applicable to such references.

XXXVIII. It shall be lawful for the Recorder to refer to the Registrar of his Court any suit, not falling within the description of suits contained in Act XLII. of 1860, which shall be instituted in the Court of such Recorder, and the amount or value of the property in dispute in which shall not exceed one hundred Rupees. Every suit so referred to the Registrar shall be heard and determined, and the decree made shall be executed by him, under the same rules as to procedure and otherwise as are applicable to suits tried by the Recorder. In such suits the Registrar shall have no power to state a case to the High Court, or to the Recorder; but an appeal shall lie on questions of law and of fact from the Registrar's decision to the Recorder, under the rules of regular appeals contained in the Code of Civil Procedure. The decision on the appeal shall be final; but the Recorder shall be at liberty to state a question of law, or usage having the force of law, or the construction of a document affecting the merits

Recorder may refer certain suits to Registrar. Rules respecting trial of same.

Reference to High Court.

of the decision, for the opinion of the High Court, in the same manner as in cases originally tried by himself.

Appeal to Her Majesty in Council in certain cases.

XXXIX. In all suits heard and determined by a Recorder under this Act, in which the sum or matter at issue is Rupees ten thousand or upwards, or in which the judgment, decree, or order shall involve, directly or indirectly, any claim, demand, or question, to or respecting property of the value of Rupees ten thousand or upwards, an appeal shall lie to Her Majesty in Council, subject to the rules and orders for the time being in force regarding appeals to Her Majesty in Council, from decisions of the High Court of Judicature at Fort William in Bengal, in the exercise of it Ordinary Original Civil Jurisdiction.

Recorder to exercise power of Court of Session, and to hold Gaol deliveries for trial of offenders.

XL. The Recorder shall exercise all the powers of a Court of Session, as defined in the Code of Criminal Procedure, within the territorial limits of the Civil Jurisdiction of the Court or Courts of which he is Recorder; and shall at the place or places where such Court or Courts are held, hold Gaol deliveries at convenient periods, of which due notice shall be given in the manner prescribed in Sections VI. and VII. of this Act, for the trial of all persons charged with offences punishable under the Indian Penal Code, who may be committed to take their trial before his Court as a Court of Session. Provided that the Recorder shall not have power to try any European British subject charged with an offence punishable with death under the said Code. The commitment of any European British subject charged with any such offence shall be made to the High Court of Fort William in Bengal. In all other cases, the commitments made within the limits of the Jurisdiction of any Recorder's Court, for offences punishable under the Indian Penal Code, shall be made to that Court.

Proviso as to European British subjects charged with offences punishable with death.

Commitment and trial of such subject, when charged with offences other than those punishable with death.

XLI. If any European British subject shall be charged in British Burmah with any offence (other than an offence punishable with death under the Indian Penal Code) which a Justice of the Peace shall not be competent to punish, and there shall be sufficient grounds for committing him for trial,

such European British subject shall be committed to take his trial before the Recorder, and shall be tried by the Recorder of the Court held within the Division of British Burmah in which either such European British subject shall have been arrested, or in which the offence with which he is charged shall have been committed; that is to say, before the Recorder at Rangoon if the arrest took place or the offence were committed in Pegu; before the Recorder at Akyab if the arrest took place or the offence were committed in Arracan; and before the Recorder at Moulmein if the arrest took place or the offence were committed in the Tenasserim Provinces.

Proceedings of Recorder as Court of Session how to be regulated.

XLII. The proceedings on trials held by the Recorder as a Court of Session under this Act shall be regulated by the Code of Criminal Procedure, and shall be subject to all the provisions of this Act, in so far as the same may be found applicable.

Execution or commutation of sentence of death.

XLIII. If on any trial, sentence of death shall be passed by the Recorder, such sentence shall not be carried into execution until it shall have been confirmed by the Chief Commissioner. It shall be lawful for the Chief Commissioner, in any case in which it shall seem proper to him so to do, to commute a sentence of death to a sentence of transportation for life, or for any shorter period not less than seven years.

No appeal from order, &c., of Recorder in criminal case, but he may reserve points for opinion of High Court.

XLIV. No appeal shall lie from any order or sentence passed by the Recorder in any Criminal case. But it shall be at the discretion of the Recorder to reserve any point or points of law for the opinion of the said High Court.

Review of case and alteration of judgment by High Court.

XLV. On such point or points of law being so reserved, as in the last preceding Section mentioned, or on its being certified by the Advocate General at Fort William that, in his judgment, there is an error in the decision of a point or points of law decided by the Recorder, or that a point or points of law which has or have been decided by the said Recorder, should be further considered, the said High Court shall have full power and authority to review the case, or such part of it as may be necessary, and finally

determine such point or points of law; and thereupon to alter the sentence passed by the Recorder, and to pass such judgment and sentence as to the said High Court shall seem right.

Stamp Duties chargeable on instruments, &c., in Recorder's Court.

XLVI. The Stamp Duties prescribed by Schedule B annexed to Act X. of 1862 (*to consolidate and amend the law relating to Stamp Duties*), for Instruments and Writings in the Sudder Court, shall be chargeable on Instruments and Writings in the Courts of the Recorders established under this Act, if the amount or value of the claim exceed One thousand Rupees, or if the case be an appeal. The foregoing limitation as to amount shall not extend to petitions of plaint. For such petitions, whether the suit be tried by the Recorder or the Registrar of the Court, and for Certificates granted under Act XXVII. of 1860, the Duty prescribed by the said Schedule B shall be chargeable. For copies of decrees in suits in which the amount or value of the claim does not exceed one thousand Rupees, as well as for copies of judgments and orders, the same Duty shall be chargeable as prescribed by the said Schedule B for copies of decrees, judgments, and orders passed or made by a Court below the Sudder Court. On Instruments and Writings in all other cases, as well as in the Recorders' Courts as in the Courts of the Registrars in cases cognizable by those Officers, on which a Duty of eight annas is prescribed by the said Schedule B, the Duty chargeable shall be eight annas.

Commissioner may sit with Recorder in any suit, and record opinion.

XLVII. The Commissioner of the Division within which the said town of Akyab, Rangoon, or Moulmein, is situated, may sit with the Recorder in the trial and hearing of any Civil or Criminal case arising within the limits of his Division; and may record his opinion in any case in which he may so sit.

And may, in the absence of Recorder, sit in Court and exercise all powers.

XLVIII. If there shall for the time being be no Recorder, or if the Recorder of any of the said Courts shall at any time, from sickness, or from being absent on leave, or other cause, be unable to attend to the duties of his Office, it shall be lawful for the Commissioner of the Town wherein such Court is situate to sit in such Court, and to exercise all the powers vested by this Act in the Recorder, but subject to all the rules,

provisions, and limitations, herein prescribed and declared. Provided that no Commissioner shall act as Recorder, or exercise any authority under this Section, without the sanction of the Chief Commissioner first obtained.

Recorder to keep such registers, &c., and to submit such returns, &c., as Chief Commissioner shall prescribe.

XLIX. The Recorder shall keep such Registers, and Books and Accounts, and submit to the Chief Commissioner such statements and returns of the work done in his Court, on the Civil and Criminal sides, as may be prescribed by the said Chief Commissioner, with the approval of the Governor General in Council. The Recorder shall also comply with such requisitions as may be made by the Governor General in Council, or by the Chief Commissioner, for records.

Interpretation of "Barrister."

L. The word "Barrister" in this Act shall be deemed to include Barristers of England or Ireland; or members of the Faculty of Advocates in Scotland; or Advocates of any High Court, or Colonial Supreme Court, authorized by Royal Charter to admit Advocates.

Supplemented by Act III., 1866, which is to be read as part of this Act.

WORKS OF PUBLIC UTILITY COMPANIES' ACT.

Act No. XXII. of 1863.

[*Received the assent of the G. G. on the* 10*th March*, 1863.

Recites expediency of enabling Government to take land for works of public utility for private companies.

1. Interprets words of "number;" "gender;" "the work;" "Local Government;" "Collector;" "promoter;" "work under this Act;" "owners;" "Companies;" "lands;" "conditions;" "toll."

2. Defines what shall be works of public utility, and that works may be declared to be so, &c.

3. Authorizes the G. G. in C. to vest in certain Officers the powers under this Act.

As to Preliminary Proceedings.

4, 5. Directs how promoters of works under this Act shall proceed at first; and (5) that Government may reject the application or call for further information.

6—8. Certificate may be granted for making preliminary survey, with terms specified; but (7) caution money to be previously deposited to meet claims of compensation for damage; and (8) certificate may be cancelled if powers under it are abused.

9, 10. Directs application under Act to be published in Gazette; and (10) in the district by the Collector.

11—14. Provides for personal registration of the work projected; and (12) if it be a branch railway, likely to form a junction with an existing railway time shall be given for opposition to it; and (13) Government may appoint a commission of its own officers to inquire into the general object, &c., of the work; and (14) upon report of the committee shall decide if the work may be provisionally registered.

15—18. Empowers the Government to impose condition on promoters; and (16) to determine for what period, not less than six months, provisional registry shall be in force; and when promoters may claim definitive registry; previous to which (17) caution money shall be deposited; and (18) a formal agreement entered into, which shall be published in Gazette.

19. Works undertaken before this Act may be registered under Act.

20. Empowers Government to apply land, &c., in its possession for public works under this Act.

21. Authorizes Local Government to vary conditions agreed to under Section 15.

22—24. Empowers Local Government, after definitive registration, to issue certificate for surveys, &c.; and (23) to appoint Commissioner to examine plans and maps; who (24) shall proceed in manner prescribed, and in case of dispute with promoters, Government shall decide.

25. Authorizes Government to extend time for giving notices, &c.

As to the Taking Title and Payment for Lands.

26, 27. Notification to be made after the boundary of the lands required is ascertained, to the effect that it will be taken; and (27) the works are then to proceed acccording to the declared powers, &c.

28. Provides for extension of existing public works.

29. Extends the Act to the taking of land for temporary purposes.

30. Empowers Government to dispose of land taken under the Act in excess of what is required for public works.

31. Directs when the promoters shall be put in possession.

32, 33. Expenses incurred by Government under the Act to be paid by promoters, by deduction out of caution money; and (33) promoters are to be liable for all damage done, amount to be ascertained by Collector.

As to Public Use of Works.

34. Works to be available for use of the public, and Courts of Justice to take judicial notice of published conditions.

35. Empowers the proprietors to carry out the conditions, as to levy of tolls, &c.

As to Construction and Inspection of Works.

36, 37. Authorizes Government to appoint inspectors over works; and (37) to suspend works on grounds specified, if apparent on report.

38, 39. Empowers Local Government, on report of Inspector, to require the construction of subsidiary works, &c.; not being (39) at variance with original special conditions.

40. Obliges owners of railways of the gauge of 5 feet 6 inches under this Act to construct all works, &c., in conformity with that gauge.

41. Extends the provisions of Act XVIII., 1854, to Railways under this Act, except as to Section 20, which may be modified, &c.

42. Reserves to Local Government the right of deciding, in case of doubt, as to necessity of constructing, &c., works to ensure the public safety, &c.

43, 44. Provides for the compulsory junction of old lines with new; and (44) empowers Local Government to decide in case of difference between owners of lines joined or used in common.

As to making Bye-Laws.

45—47. Empowers owners of works under this Act to make bye-laws, &c., subject to approval of Local Government; such bye-laws, &c., (46) to be notified in Gazette; and (47) in case of railways, &c., to conform with Act XVIII., 1854.

As to Lien of Government on Work.

48. Gives the Government a lien on works under this Act, for claims, and provides against seizure of works for debt of owners without consent of Government.

49. Provides for termination of contracts and re-entering possession of lands.

As to Mines.

50, 51. Provision as to property in mines underlying public works; and (51) as to working such mines.

As to Offences and Penalties.

52. Applies Penal Code to certain offences under this Act.

53. Applies Act XVIII., 1854, to the recovery of penalties under Bye-Laws.

An Act to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken.

Preamble.

Whereas it is expedient to enable the Government to take land for the construction of works of public utility by private persons or Companies; and whereas it is proper, at the same time, to protect the rights of all persons from whom land shall be so taken, or be proposed to be taken; and also to determine the manner in which such works may be undertaken, and shall be managed after their

construction; as well as to secure to the public, under suitable regulations, the use of works constructed on land so taken, it is enacted as follows:

AS TO THE CONSTRUCTION OF THE ACT.

I. The following words and expressions shall have the several meanings hereby assigned to them, unless when a contrary intention appears from the context:—

Interpretation.

Words in the singular number shall include the plural, and words in the plural shall include the singular.

Number.

Words importing the masculine gender shall include females.

Gender.

The words "the Work" shall signify the public work proposed to be undertaken.

"The Work."

The words "Local Government" shall mean the head of the Executive Administration of the Province in which the public work is proposed to be constructed.

"Local Government."

The words "the Collector" shall include any Officer exercising, by authority of Government, the duties of a Collector of Land Revenue, by whatever name his office may be designated.

"The Collector."

The words "the Promoters" shall mean the person or persons who propose to construct the work, or are empowered to construct it, whether a single person or a Company.

"The Promoters."

The words "Work under this Act" shall imply a work definitively registered as hereinafter provided by this Act.

"Work under this Act."

The words "the Owners" or "the Company" shall signify the parties in charge of any public work, under this Act, or referred to in this Act, whether as promoters, proprietors, lessees, agents, assignees, or otherwise, and whether a single person or a Company.

"The Owners."

"The Company."

The word "Lands" shall include messuages, lands, tenements, and hereditaments, of any tenure.

"Lands."

"Conditions." The word "Conditions" shall signify the special conditions of agreement, between the promoters or owners of a work under this Act and the Government, referred to in Section XV. of this Act.

"Toll." The word "Toll" shall include any rate, or charge, or other payment, to be made for any use of a work under this Act, or for any service performed in connection with the use of any such work.

What to be deemed works of public utility. II. A work of public utility within this Act shall be held to mean any bridge, road, railroad, tramroad, canal for irrigation or navigation, work for the improvement of a river or harbour, dock, quay, jetty, drainage work, or electric telegraph; also all works subsidiary to any such work. It shall be lawful for the Governor General in Council, from time to time, by a declaration to be made to that effect, and published in the Official Gazette, to order that any other class of works, or any particular work other than those named above, shall be included among works of public utility within this Act.

Governor General may vest certain Officers with powers conferred by this Act on Local Government. III. It shall be lawful for the Governor General of India in Council, to vest the principal Executive Officer of any Territory under the immediate administration of the Governor General in Council, with any or all of the powers vested by this Act in the Local Government of such Territory.

AS TO THE PRELIMINARY PROCEEDINGS TO BE TAKEN, AND THE REGISTRATION OF WORKS.

Promoters to make preliminary application, accompanied by statement. IV. The promoters of any work of public utility, who shall desire to proceed under this Act, shall make a preliminary application in writing to the Local Government, explaining the general object and nature of the work, and its intended locality. Every such application shall further be accompanied by a statement of the estimated costs of the construction of the said work, and the mode in which the promoters propose to provide the funds for constructing, maintaining, and working the same.

V. If the Local Government shall not be satisfied with any such application or statement, it may reject it; or it may call on the promoters to supply any further information, or to amend such application or statement, on any point on which such further information or amendment shall to the Local Government seem requisite.

Local Government may reject application, or call for further information, &c.

VI. If the promoters shall desire to undertake any preliminary survey on account of the proposed work, before preparing and submitting the statement aforesaid, they shall declare the same in their preliminary application; and it shall be lawful for the Local Government, if satisfied of the expediency of permitting such survey, to issue a certificate authorizing the same. Such certificate shall declare the names of the promoters entitled to use it; the time for which it shall be in force, and the District, or Districts, or locality, for which it shall be valid; and shall contain such further regulations, for the guidance of the persons using the said certificate, as to the Local Government shall seem fit. The promoters named in such certificate, and such other persons as the promoters shall name, in a list to be furnished to the Chief Officer charged with the Executive Administration of each District in which the proposed work is to be constructed, shall be authorized to enter upon any lands, in the manner and for the time declared in such certificate, to undertake any survey or other investigation necessary for the proper prosecution of the proposed work; and while acting under the authority given in the said certificate, such promoters and other persons aforesaid shall be deemed to be public servants, whose duty it is to make a survey under Clause 10 of Section 21 of the Indian Penal Code. Provided that such promoters and other persons shall not be authorized to enter any house, or building, or the curtilage of any house, or enclosed garden, without the assent of the occupier; or to cut down any tree, or otherwise injure or destroy any property. Provided also that such promoters and other persons aforesaid shall, while acting under the authority of such certificate, be liable, as public servants, for any offence described

Issue of certificate authorising preliminary survey.

Terms of certificate.

Authority conveyed thereby.

Proviso limiting authority.

Liability of offences.

in Chapter IX. of the said Indian Penal Code, to the penalty provided in the said Chapter for such offence.

Deposit of caution money may be required before issue of certificate.

VII. It shall be lawful for the Local Government, before issuing a certificate as aforesaid, to call on the promoters to deposit, as caution money, such sum and in such manner, as the Local Government shall in each case determine; to be applied by the Local Government to make good any damage done in the course of such survey by the promoters or other persons using the said certificate. The promoters shall be entitled, on their demand, to receive back, after the expiry of such certificate, and after the payment of any claim for damage which shall have been proved to the satisfaction of the Local Government, any surplus remaining in the hands of such Government.

Refund of surplus.

Cancelment of certificate.

VIII. It shall be lawful for the Local Government, at any time prior to the provisional registration of a public work under this Act as hereinafter provided, to cancel a certificate granted under Section VI. of this Act, if it shall appear to such Local Government that the powers granted by such certificate have been abused, or for any other sufficient reason.

Publication of preliminary application, &c., by promoters, and supply of copies to Collectors, &c.

IX. The promoters shall, at the time when they submit their preliminary application to the Local Government, publish the same, and if they so desire, the statement that accompanies it, in the Official Gazette, and also, if possible, in at least two newspapers (one of which shall be in English) in the Province in which the work is proposed to be executed; and shall repeat such publication, at least six times, within a period of two months from the date of submission of such application to the Local Government; the promoters shall further cause to be delivered, with all reasonable despatch, and within a period not exceeding two months, to the Collector of every District in which any part of such work is proposed to be constructed, or such other Officer as the Local Government shall from time to time direct, six copies of such application, with a faithful translation of the same into the vernacular language of the District; and shall in like manner publish from time to time and

Amended applications.

deliver as aforesaid, copies and translations of any amended applications submitted to the Local Government.

Publication by Collector.

X. The Collector or other Officer as aforesaid shall, on receipt of the preliminary application, publish the same in English, and in the vernacular language of the District, in the localities where the work is proposed to be constructed, in such manner as to him seems best.

Local Government to decide, after stated interval, whether work may be provisionally registered or not.

XI. At any time not sooner than four months after the receipt of the said application, or if the application be amended, then within four months after the receipt of such amended application, the Local Government, on being satisfied by the promoters that the above conditions have been complied with, shall be authorized to consider finally such application, and any objections that shall have been raised against the construction of the proposed work; and to declare whether the said work may be provisionally registered under this Act or not.

And before deciding, in case of continuation or branch Railway, or tramway, to allow time for opposition, &c.

XII. Before declaring that any work may be provisionally registered under this Act, being a Railway, or tramway, in continuation of or forming a branch of any existing line; or being a line that might reasonably be expected to be united with any existing Railway, either as a continuation, or a branch; and at the same time being at some one point within fifty miles distance of such existing Railway, the Local Government shall afford, to the owners of such existing line, reasonable time and opportunity to declare whether they offer any opposition to the registration of the proposed line; and on a full consideration of such opposition, and of the application of the promoters, and of any objections aforesaid, and of the relative public advantages of all proposals made in the matter, the Local Government shall be authorized to declare its decision on the said application.

And may also appoint a commission to enquire into particulars.

XIII. Previously to deciding that the said work shall be provisionally registered under this Act, it shall be lawful for the Local Government, if it shall think fit, to appoint a Commission of one or

more persons, who may be Government Officers, to enquire into the general object and nature of the said work; its intended locality, and probable utility; its estimated cost; the grounds of any opposition to the said work; and any other matter connected with the said work, on which such Local Government shall desire to be satisfied. For the purposes of such enquiry, such Commission shall have power to take evidence; and for obtaining the attendance, and for the examination of witnesses, may exercise the powers of a Civil Court under the Code of Civil Procedure.

Powers of Commission.

XIV. On the receipt of the Report of the Commission appointed under the last preceding Section, the Local Government shall decide if the said work shall be provisionally registered.

On report of Commission, Local Government to decide as to registry.

XV. Before declaring its decision as aforesaid, the Local Government shall, subject to such general or special instructions as the Governor General of India in Council shall, from time to time, lay down, prescribe the conditions which such Local Government shall consider it necessary to impose on the promoters, having regard to the special circumstances of each case, in respect to the provision and payment of the price of the land for the proposed work; the construction, maintenance, or working of the same; the regulation of the use of the work, as regards the security and convenience of the public; and such other matters as to the Local Government may from time to time seem right; and the Local Government shall inform the promoters of such conditions.

And to prescribe conditions to be imposed on promoters, before declaring decision.

XVI. The Local Government, on causing a work to be provisionally registered under this Act, shall determine for what period, being not less than six months, such registry shall be in force. And at any time within such period, the promoters may claim to have the registry made definitive as hereinafter provided.

Duration of provisional registry, and right to have it made definitive.

XVII. Unless for any cause the Local Government shall otherwise determine, the promoters, before they are entitled to claim the definitive registry of the proposed work, shall deposit with the

Promoters to deposit caution money before definitive registry.

Government, in such manner as shall be approved by the Local Government, a sum to be fixed in each case by the Local Government, but not exceeding ten per cent. on the whole estimated cost of the said work, as caution money; to be disposed of in the manner agreed in the said conditions unless it be otherwise dealt with as hereinafter provided. And any sum remaining in the hands of the Local Government, from any caution money lodged under Section VII. of this Act, shall be held to be a payment in part of the caution money required under this Section.

Also to complete agreement, under conditions.

XVIII. The promoters, before such claim for definitive registry shall be admitted, shall further complete an agreement with the Secretary of State for India in Council, through the Government, under the conditions aforesaid, or under such other conditions as may be agreed between the said promoters and the Local Government.

Publication of agreement, and declaration of registry.

And thereupon the Local Government shall cause such agreement, with the conditions thereof, to be published in the Official Gazette; and shall declare that the work is definitively registered as a public work under this Act.

Definitive registry of work, undertaken under agreement entered into before passing of Act.

XIX. It shall be lawful for the Local Government, on the application of the promoters of any public work under this Act, to cause to be definitively registered under this Act, any public work undertaken by such promoters, under an agreement entered into previously to the passing of this Act with the Secretary of State, or the Government of India, or any Local Government, as though such work had been proposed to be undertaken under the provisions of this Act hereinbefore contained.

Proviso.

Provided that at the time of so registering any work, the Local Government shall cause the said contract to be published in the Official Gazette, with all the conditions attaching thereto; and declare that the said work has been so registered definitively.

Local Government may apply land, &c., for purposes of public work under Act.

XX. It shall be lawful for the Local Government to apply any land in its lawful possession, also any public road or place, for the purposes of any public work under this Act, to be

constructed at the expense and risk of the promoters of such work. Provided that every such work shall be definitively registered accordingly, and that the conditions under which such work is undertaken shall be published in the Official Gazette; also that the prosecution and construction of every such work shall be subject to the provisions of Section XII. of this Act.

Proviso.

XXI. The Local Government may, from time to time, with the assent of the owners of any work under this Act, vary the conditions to be agreed to under Section XV. of this Act. Provided that such variation shall forthwith be published in the Official Gazette; and that after such publication, the amended conditions shall be in force in supersession of those first made.

Local Government may, with consent, vary conditions.

Proviso.

XXII. After the definitive registry of any work under this Act, it shall be lawful for the Local Government, from time to time, in such wise as to it shall appear fit, to issue certificates to authorize the promoters, their servants, and agents, to enter upon any lands, and to undertake such surveys or levels, or other examinations as may be necessary for the proper prosecution of the said work; also to dig and bore into the sub-soil, and to indicate the intended boundaries of the land to be taken, and the positions of the proposed works, by suitable land-marks; and to perform all other necessary preliminary acts of the like nature: and such certificates shall declare the names of the persons entitled to use them, the time for which they shall be in force, and the Districts or locality, for which they shall be valid; and shall contain such further regulations, for the guidance of the persons using them, as to the Local Government shall seem fit. And while acting under the authority given in the said certificate, such persons shall be deemed to be public servants, whose duty it is to make a survey under Clause 10 of Section 21 of the Indian Penal Code. Provided, however, that such persons shall not enter any house or building, or the curtilage of any house, or enclosed garden, without giving twenty-four hours' notice, or without

After definitive registry, Local Government may issue certificate, authorizing surveys, &c.

Terms of certificate.

Proviso limiting authority.

the assent of the occupier thereof; nor shall they cut down any tree, or otherwise injure or destroy any property, unless the same be essentially necessary. Provided also, that such persons, while acting under the authority of such certificate, shall be liable as public servants, for any offences described in Chapter IX. of the said Indian Penal Code, to the penalty provided in the said Chapter for such offence.

Liability for offences.

XXIII. The promoters shall, on the completion of the necessary surveys and the like, submit to the Local Government such drawings, maps, and plans, of the proposed work, as well as of the land required for it, as the Local Government shall in each case require. And thereupon the Local Government shall appoint one or more Commissioners, who may be Government Officers, to examine the said drawings, maps, and plans; and to determine finally, in concert with the promoters or their agents, all matters of detail in respect of the exact position of the work, or of the parts thereof, as well as the boundaries of the land to be taken for the said work; and shall notify such appointment in the Official Gazette; and shall cause such Notification to be published in the District where the work is proposed to be undertaken, in such manner as shall seem best to the Local Government.

On completion of surveys, &c., promoters, to submit drawings, &c.

Appointment of Commissioners to examine same, and settle details.

XXIV. The Commissioners appointed under the last preceding Section shall proceed at any time, but not sooner than thirty days after such Notification, to settle, in concert with the promoters or their agents, the exact position of the work, or of the parts thereof; and thereafter, with all practicable despatch, to examine the boundaries of the land proposed to be taken for the work; and the said Commissioners may call upon the promoters to make any variation in their project, and in the position of the works, or any part of them, and in the boundaries of the land proposed to be taken, that may to the said commissioners seem necessary, to secure the safety or convenience of the public, or to prevent any undue interference with private property, or for any other

Commissioners, how to proceed.

May call for variation of project, &c.

reasonable cause: and any such variation, if agreed to by the promoters shall thereon be considered to be finally adopted: but if the promoters shall not agree, the question in dispute shall be submitted to the Local Government, and the decision of the Local Government shall be final; provided that the promoters shall not be bound to carry out the proposed work, if any variations be insisted upon by the Local Government, to which the promoters will not assent.

Provisions for case of promoters not agreeing thereto.

XXV. The Local Government shall be authorised to extend the periods allowed for giving any notices, or for performing any acts, required under the foregoing Sections, as from time to time may seem to it proper.

Extension of periods allowed for notices, &c.

AS TO THE TAKING LANDS, THE TITLE THEREIN, AND THE PAYMENT THEREFOR.

XXVI. When the boundaries of the land required for the work shall have been settled as aforesaid, and the promoters shall have caused the said land to be measured, and suitable land-plans to be prepared of the same, the Local Government shall cause a declaration to be made, under the signature of a Secretary to such Government, or some Officer duly authorised to certify the orders of the Local Government, that the land aforesaid is required for the said work; and such declaration shall be conclusive that the land may be taken under this Act. After making such declaration, the Local Government may proceed to take any such land, as though it had been required to be taken at the public expense, and for a public purpose; and as though a declaration had been made as required under Act VI. of 1857 *for the acquisition of land for public purposes.*

On settlement of boundaries, &c., Local Government to issue declaration as to land being required.

And may thereafter proceed to take the same.

XXVII. The boundaries, as determined by the Commissioners, and the plans and measurements aforesaid, of the said land, when verified and found to be correct, or when duly corrected by the Collector, or other Officer, appointed to proceed under the said Act VI. of 1857, shall be held to be the boundaries, plans, and measurements, required under Section IV. of the said Act, so far as the said lands are concerned.

Rules as to boundaries, plans, and measurements.

XXVIII. If at any time land shall be required for any necessary or reasonable extension of, or addition to, any work under this Act, it shall be lawful for the Local Government to make all requisite declarations for the purpose of obtaining such land under this Act, after such and only such of the preliminary proceedings and enquiries, hereinbefore required, as to the Local Government shall in each case seem sufficient for the protection of the rights of the public, and of individuals concerned. Provided that nothing shall be done contrary to the provisions of Section XII. of this Act; and that all proceedings for the actual taking possession of the land shall be conducted in accordance with the provisions of the said Act VI. of 1857.

Preliminary proceedings and declaration by Local Government, as to land required for extension of, or addition to, work under Act.

Proviso.

XXIX. Land may be taken under this Act for a temporary purpose, in like manner as under the said Act VI. of 1857.

Taking land for a temporary purpose.

XXX. All land taken under this Act shall vest absolutely in the Local Government, as though it had been taken for a public purpose under the said Act VI. of 1857; and it shall be lawful for the Local Government to dispose of any land taken under this Act, the whole or any part of which shall not be required for the purpose for which it was taken, in any manner that it may think fit. The Local Government alone shall be responsible for the payment of all claims on account of such land, to all persons whatever; and the promoters shall in no wise be responsible for any such payment, otherwise than to the Local Government; and then only as is herein declared and provided, and shall be specially agreed in the conditions aforesaid.

Right, powers, and responsibilities of Local Government, as to land taken under Act.

XXXI. When all the conditions as aforesaid, applicable to the transfer of the land to the promoters, shall have been fully complied with, and not till then, the Government shall cause the promoters to be placed in possession of such land in accordance with such conditions. The title of the Local Government, or of the promoters, to such land, shall not be liable to be questioned on account of any informality in any proceeding taken under this Act.

Promoters when to be placed in possession of land.

Expenses to be paid by promoters.

XXXII. All expenses attending the proceedings of the Commissioners to be appointed under Section XXIII. of this Act, and all expenses incurred by the Local Government in taking up the land required for the promoters under the said Act VI. of 1857, shall be paid by the said promoters, unless otherwise specially agreed. The Local Government shall determine the sum due on account of such expenses, and shall be authorized to deduct such amount from any sum lodged as caution money as aforesaid, if it be not otherwise paid by the promoters; and any sum remaining unpaid, both as aforesaid, and on account of land or compensation, for which the promoters are liable under the said conditions, may, on the order of the Local Government to that effect, be levied by distress and sale on the said promoters, in the manner provided for distress and sale under Civil process.

Amount of same how to be determined and recovered.

Liability of promoters for damage done in preliminary operations.

Provision for satisfaction of claims on account of damage.

XXXIII. The promoters shall further be liable for all damage done in any of their preliminary operations, and shall duly satisfy and pay all claims of this description; and if, at the time of taking possession of the land required for the promoters, it shall appear that any such claim remains unsatisfied, the Collector, or other Officer, acting under the said Act VI. of 1857, in respect of such land, shall be authorized to determine all such claims summarily, as though they had been claims arising under the said Act; and all payments on account of such claims shall be made good by the promoters as under the last preceding Section.

AS TO THE PUBLIC USE OF WORKS.

Works under Act how far available for public use.

XXXIV. Every work under this Act shall be available for the use of the public in accordance with, and to the extent provided by, the conditions aforesaid, or any Act at the time being in force, but not otherwise; and after the publication of the conditions relating to any such works, in the Official Gazette, all Courts may take judicial notice of the same; and it shall be lawful for any person whatsoever to sue the owners of such work, for any damage he may incur by reason of any neglect of the

Courts may take cognizance of conditions relating to same, and owners may be sued for damage resulting from neglect.

said conditions, by the said owners, in respect of any such public use of such work as though such person had been a party to the said conditions.

Powers of owners as to tolls for use of their works.

XXXV. The owners of any work under this Act shall be authorized to levy such tolls, in such manner, as shall be fixed in accordance with the conditions aforesaid; also to refuse the use of such work, and to refuse to perform any service in connection therewith, unless such tolls shall be paid in the manner fixed aforesaid; as well as to detain any thing or animal on which such tolls shall be due, and to sell the same, if the said tolls shall remain unpaid after a reasonable time has been allowed to elapse for the payment of the same. Provided that no such tolls shall be demanded or taken at any place, unless proper tables and lists of such tolls be exhibited at such place, in the manner fixed as aforesaid.

Proviso.

As to the Construction of the Works, and the Inspection of the same.

Inspection of works.

XXXVI. The Local Government may appoint Inspectors to inspect any work under this Act, also all things appertaining thereto, and to the working of the same, but not books or documents, otherwise than as shall be provided in the conditions aforesaid. The owners of such work, and all persons authorized by them to use the same in connection with any public use of the said work, and their servants and agents, shall be bound to afford to such Inspectors all reasonable facility for their inspection, and all such information as may be reasonably required by them.

If report of Inspector show cause, Local Government may order use of work to be suspended until defects are remedied.

XXXVII. If it appear to the Local Government, upon the report of any Inspector, that the use of any work under this Act cannot be continued without danger to the public, or to the persons employed thereon; or that rules, adequate to the protection of the public under the provisions of this Act, have not been framed and put in force; or that the conditions agreed upon under Section XV. of this Act have not been carried out, the Local Government may order that all defects shall be made good within a reasonable specified time;

and in default of the owners of such work complying with such order, within such time, or such further time as the Local Government shall appoint, the Local Government shall be empowered to direct that the use of such work shall be suspended until the defects aforesaid shall be remedied to the satisfaction of the Local Government.

Local Government may direct construction of subsidiary work.

XXXVIII. The Local Government may, at any time, on the report of an Inspector during the construction of any work under this Act, direct the promoters to construct, in connection therewith, such culverts, bridges, tunnels, drains, or other works, as may be considered by the Local Government to be necessary, to continue to the public any roads, or rights of way, or easements, or the use of any water theretofore available; and to make due provision for the irrigation and drainage of the country, so as to prevent the same from being impeded, or unnecessarily altered, by the construction of the said work. If default be made in complying with any directions given under the provisions of this Section, the Local Government may order the prosecution of the work to be stopped, until such directions shall be complied with to the satisfaction of the Local Government.

And in default of compliance, may stop work.

Saving as to matters at variance with special conditions.

XXXIX. Nothing in the last preceding Section shall be construed to render the promoters liable to construct any work, or to undertake any thing, at variance with the special conditions of agreement under Section XV. of this Act.

Fixed structures, &c., on Railway of certain gauge, to be of standard dimensions.

XL. The owners of every Railway under this Act, being of the gauge of five feet six inches, shall be bound, unless specially exempted by the Governor General of India in Council, to erect all the fixed structures, and to construct all the rolling stock in conformity with the standard dimensions determined in that behalf from time to time by the Governor General of India in Council; and it shall be lawful for the Local Government to order the said owners to make good all defects in such structures, or rolling stock, and to suspend their use until such defects shall be made good to the satisfaction of the Local Government.

XLI. The provisions of Act XVIII. of 1854 (*relating to Railways in India*), shall apply to all Railways under this Act; provided that, in respect of such Railways, the Local Government shall be authorised to determine, from time to time, the extent to which fences shall be constructed under Section XX. of the said Act XVIII. of 1854, and that the owners of such Railways shall not be liable to maintain fences, under the said Section, otherwise than as shall be so determined.

Act XVIII. of 1854 applicable to Railways under this Act.

Proviso as to fences.

XLII. In case any doubt shall at any time arise, as to the necessity for constructing or altering any work, to ensure the safety of the public, or to provide for established public rights of way, or other public rights of any sort, in connection with any work under this Act, the decision of the Local Government on such subject shall be final, and shall not be liable to be called in question in any Court of Justice.

Decision of Local Government on questions concerning public safety, &c.

XLIII. If the owners of a Railway under this Act shall desire to form a connection with any existing Railway of the same gauge, the owners of the new line shall be authorized to call on the owners of the old line to effect the junction; and if the owners of the old line shall not proceed to effect the junction within a reasonable time, the Local Government, on being satisfied that the junction may be made with safety to the public, and without injury to the existing Railway, or detriment to the traffic thereon, may authorize the owners of the proposed line to form the junction, and to do all necessary acts in that behalf, and to lay down such additional lines of rails, points, and crossings, as may be necessary for the purpose, at such time and in such manner as the Local Government shall direct. Provided that, if the junction be effected by the owners of the previously existing Railway, the expense of forming the junction, of supplying all necessary works, and of keeping in repair and renewing the same, shall be paid by the owners of the new line.

Provision as to junction of Railway under Act with pre-existing line.

As to expenses.

XLIV. If any difference shall arise as to the terms on which the traffic of a branch or junction line of Railway under this Act shall pass over or upon any other line with which it shall be connected;

Local Government to determine differences between owners of lines joined, connected, or used in common.

or as to the manner and times of conducting the traffic, or of regulating the same, over the two lines, or either of them; or as to any matter touching any line under this Act, used in common by two or more Companies, the Local Government shall be authorised, on the application of either or any one of the said Companies, to hear and determine all such differences; and any order given by the Local Government in such a case shall be final and binding on all parties. Provided that no order shall be so given at variance with any condition of any agreement between the Government and any of the said Companies, that shall be applicable to the said lines of Railway.

Proviso.

AS TO THE MAKING OF BYE-LAWS.

XLV. It shall be lawful for the owners of any work under this Act, to make Bye-Laws and Regulations for the guidance of their servants and agents, and of persons employed by them, and for the maintenance of order in the use of such work; and to provide for the safety and convenience of the public or of the persons employed on such work: and all such Bye-Laws and Regulations shall be subject to the approval of the Local Government; and when so approved all Courts and Magistrates shall take judicial notice of the same; and the Local Government shall be authorized to cause any alterations to be made in the Bye-Laws and Regulations, so made and approved, as to the Local Government shall from time to time seem proper. Provided that such Bye-Laws and Regulations be not repugnant to any Law in force in the British Territories in India; and that no penalty shall be attached to the infringement of any such Bye-Law or Regulation, exceeding a fine of fifty Rupees.

Power of owners to make Bye-Laws and Regulations.

Subject to approval and alteration.

Proviso.

XLVI. Such Bye-Laws and Regulations affecting the public shall be published, and the substance of them shall be notified, in such places on the said work, and in such manner, as the Local Government shall from time to time approve or direct; and no penalty shall be recoverable under such Bye-Laws or Regulations, unless the same shall have been published and kept published as aforesaid.

Publication of Bye-Laws, and notification of substance of same.

XLVII. In the case of a Railway under this Act, being of the gauge of five feet and six inches, it is further provided that the Bye-Laws and Regulations shall, unless the Governor General of India in Council shall otherwise permit, conform in every respect to the Regulations for Railway Companies under the said Act XVIII. of 1854.

Provision as to Bye-Laws in the case of a Railway under Act, of 5½ feet gauge.

AS TO THE LIEN OF THE GOVERNMENT ON ANY WORK.

XLIII. No lands taken or supplied by Government for any work under this Act; no tree, building, or structure standing on such lands; no machinery nor permanent way fixed to the soil on such lands; nor anything whatsoever on which the Local Government shall be entitled to re-enter, or of which it shall be entitled to take possession, without payment, on the determination from any cause of the agreement between the Local Government and the promoters, under the conditions aforesaid, shall, without the consent of the Local Government, be liable to be seized or applied in satisfaction of any debts or liabilities of any sort of the promoters; nor, without such consent, shall the promoters alienate the same, or any part thereof, in any way not provided for, or consonant with such agreement or conditions.

Lands for work under Act, and fixtures thereon, not liable to seizure for debt, nor alienable by promoters without consent of Local Government.

XLIX. If the owners of a work under this Act shall voluntarily determine to wind up their affairs; or shall be so directed by an order of Court; or shall abandon or determine to abandon such work; or shall commit an act of Bankruptcy or Insolvency; it shall be lawful for the Local Government thereupon to terminate all contracts then existing between it and the promoters, in respect of such work; and to re-enter upon, and take possession of, all things whatsoever to which the Local Government shall be so entitled, under the conditions of such contracts; also of all lands taken at the public expense, or supplied to the said promoters free of cost; together with all trees, buildings, and structures, standing on such lands; as well as all machinery and permanent way fixed to the soil on such lands. Provided that nothing shall be so taken which shall be expressly excluded from

Right of Local Government to terminate contracts with promoters in certain cases.

And to re-enter and take possession of lands, &c.

such liability under the conditions aforesaid. But the Local Government shall be bound to surrender, to a lawful claimant, all moveable property of which it shall at any time obtain possession from the promoters otherwise than by purchase, which shall not have been fully paid for by the promoters; or in lieu of such surrender, if the Local Government shall so determine, to satisfy all just outstanding claims on account of such property: provided that no such surrender shall be obligatory, and no such claim shall be entertained, in respect of anything that shall have been delivered to the said promoters more than twelve months before the date of such surrender being required, or of such claim being made known to the Local Government.

Saving of moveable property in certain cases.

Proviso.

As to Mines near any Work.

L. Whenever land shall be taken under this Act for the construction of any work, the taking thereof shall not be held to convey, or include, the right to any mine of coal, or other minerals, lying under such land; except only such part thereof as shall be necessary to be dug or carried away or used in the construction of the works, unless compensation for the same shall have been expressly allowed in the award made in favour of the persons interested in the land.

Provision as to mines lying under land taken under Act.

LI. If the owner, lessee, or occupier, of any mine of coal, or of any other mineral lying immediately under any work under this Act, or within forty yards therefrom, shall work the same, it shall be competent to the Local Government, on the application of the promoters of such work, to require such person to abandon such working; or so to work the same as not to endamage the said work, and to construct the works necessary to make it safe. Provided that compensation shall be awarded to such owner, lessee, or occupier, in the manner provided for in the said Act VI. of 1857, for any loss sustained by him from being compelled to abandon or alter his mode of working the mine; and also for any necessary works constructed by him (when so required as aforesaid) in order to

And to working of mines under or near work under Act.

Proviso as to compensation.

prevent damage to the said work; but all damage or loss to the promoters, arising from any improper working of such mines, shall be at the risk of the owners, lessees, or occupiers, of the said mines; and shall be made good by them.

AS TO OFFENCES AND THE RECOVERY OF PENALTIES.

Certain offences punishable under Penal Code.

LII. Whoever shall obstruct, or commit any contempt of the lawful authority of, any public servant in the discharge of any function, or in the performance of any thing undertaken, under this Act; or shall commit mischief by destroying, defacing, or removing, any landmark fixed by the authority of any such public servant, shall be punishable under the provisions of the Indian Penal Code.

Recovery of penalties for offences under Bye-Laws.

LIII. All penalties for offences under the Bye-Laws and Regulations aforesaid, shall be recoverable in the manner provided for offences punishable by fine only, in the said Act XVIII. of 1854.

WASTE LANDS.

ACT NO. XXIII. OF 1863.

[*Received the assent of the G. G. on the 10th March*, 1863.

Recites expediency of making special provision for adjudication of claims to waste lands.

1—6. Gives Collector, &c., power to enquire into grounds of claim to waste lands; and (2) prescribes a procedure for him; and (3) pending enquiry sale shall be suspended; and (4) be stopped if found just; and (5) after order to stop sale shall serve claimant with copy of order, and report, &c., and Board shall decide on report

7, 8. Provides for special court for trying claims to waste lands; and (8) gives to such courts exclusive cognizance.

9—13. Directs where such courts shall be held; and (10) who shall be plaintiff and who defendant; and (11) that proceedings shall be regulated by Civil Code; and (12) directs day to be fixed for hearing; and (13) mode of proceeding on hearing.

14—17. Directs that there shall be neither appeal nor revision; but (15) case may be raised for opinion of High Court; and (16) in case of reference to High Court, court of claims may proceed, and how; which court (17) shall keep the record of cases disposed of by it.

18—23. Limits time for bringing claims, &c., to 3 years; and (19) entitles claimant, if he establishes claim, not to the land, but to compensation, from Government, &c.; (20) or value according to Act VI., 1857; and (21) such compensation or value to operate as full satisfaction; but (22) Government may award compensation notwithstanding limitation of time; and (23) may in specified case give full value to claimant.

24. Interprets words of number and gender.

An Act to provide for the adjudication of claims to waste lands.

Preamble.

Whereas it is expedient to make special provision for the speedy adjudication of claims which may be preferred to waste lands proposed to be sold, or otherwise dealt with, on account of Government, and of objections taken to the sale or other disposition of such lands, it is enacted as follows:

Provision for inquiry into claims to land, or objections to sale of same.

I. When any claim shall be preferred to any waste land proposed to be sold, or otherwise dealt with, on account of Government, or when any objection shall be taken to the sale or other disposition of such land, the Collector of the District in which such land is situate, or other Officer performing the duties of a Collector of Land Revenue in such District, by whatever name his Office is designated, shall, if the claim or objection be preferred within the period mentioned in the advertisement to be issued for the sale or other disposition of such land, which period shall not be less than three months, proceed to make an enquiry into the claim or objection.

Procedure in such cases.

II. The Collector or other Officer as aforesaid shall call upon the claimant or objector to produce any evidence, or documents, upon which he may rely in proof of his claim or objection; and after considering the same, and making any further enquiry that may appear proper, shall dispose of the case by an order for the admission or rejection of the claim or objection; and if the land is proposed to be sold, for the sale of the same; subject to any condition or reservation which, to such Collector or other Officer as aforesaid, shall appear to be proper. If the land is ordered to be sold, subject to any condition or reservation, such condition or reservation shall be notified to intending purchasers at the time of sale.

III. Pending an enquiry into any claim or objection under the last preceding Section, the Collector or other Officer as aforesaid shall postpone the sale or other disposition of the land; and if he shall order that such claim or objection be rejected, he shall further postpone the sale or other disposition of the land, to allow the claimant or objector to contest the order of rejection in the manner hereinafter provided.

Pending enquiry, sale, &c., to be postponed.

IV. If the Collector or other Officer as aforesaid shall consider the claim or objection to be established, and that the sale or other disposition of the land should not take place, he shall stop the sale or other disposition of the land: but such sale or other disposition of the land may afterwards be proceeded with, if, on an order issued by the Local Government to try the claim or objection, as provided in Section VI. of this Act, the claimant or objector shall fail to establish the same.

Sale to be stopped if claim appear to be established, but may afterwards be proceeded with.

V. If the Collector or other Officer aforesaid shall order that the claim or objection be rejected, or that the land be sold subject to any condition or reservation or that it be otherwise dealt with, he shall cause a copy of such order to be delivered to the claimant or objector; and if such claimant or objector shall not, within one week from the delivery of such copy, or within such further time as the Collector or other Officer as aforesaid, for any special reason to be recorded, shall see fit to grant, give notice in writing to such Collector or other Officer as aforesaid, that he intends to contest such order, the order shall be final. If the claimant or objector shall, within the time allowed, give such notice, the Collector or other Officer as aforesaid shall immediately make a report to the Board of Revenue, or other superior Revenue Authority; and shall forward with such Report a copy of his order, stating fully all the circumstances of the case, and the evidence adduced in support, or otherwise, of the claim or objection; and such Board, or other Authority, on the receipt of such Report, and after calling for any further information which it may consider necessary, may confirm, modify, or reverse, the order of the

Procedure after passing of order in the case.

Report to Revenue Board.

Collector or other Officer as aforesaid. If the Board or other Authority as aforesaid confirm the order of the Collector or other Officer as aforesaid, or modify such order in such manner as to leave any part of such order in force, adverse to the claimant or objector, the Collector or other Officer as aforesaid shall certify such order to the Court constituted as hereinafter provided; and such Court shall forthwith give notice to the claimant or objector; and if such claimant or objector shall not, within thirty days from the delivery of such notice from the Court, institute a suit in such Court, to establish his claim or objection, the order of the Board or other Authority aforesaid shall be final.

Decision of Board.

VI. The Local Government may, within twelve months after the date on which the claim of any claimant of waste land, or the objection of any objector, as aforesaid, shall have been admitted under this Act by the Collector or other Officer as aforesaid, direct a suit to be brought to try the claim or objection of the claimant or objector, in a Court constituted as hereinafter provided.

Local Government may, within twelve months order suit to be brought to try claim admitted by Collector.

VII. For the investigation and trial of claims under this Act, the Local Government shall constitute, in every District in which there may be any waste lands capable of being sold, or otherwise dealt with, on account of Government, a Court consisting of an uneven number of persons, not less than three, of whom the Judge of the District, or the Officer presiding in the principal Civil Court of original jurisdiction in the District, by whatever name his office may be designated, shall be one. Any one or more of the members of which such Court shall consist, shall have power to make all such orders in the case as may be necessary prior to the hearing of the suit. Provided that, whenever the Collector, or other Officer, by whom the original enquiry was held, is the Officer presiding in the principal Civil Court of original jurisdiction in the District, such Officer shall not be a Member of such Court.

Special Court for trying claims.

VIII. Whenever any Court is constituted under this Act, notice thereof shall be given by a written proclamation, copies of which shall be affixed in the several Courts, and in the offices of the

Notice of constitution of Special Courts. Claims not cognizable in other Courts.

several Collectors and Magistrates of the District; and from the date of the issue of such proclamation, no other Court shall be competent to entertain any claim or objection belonging to the class of claims or objections for the trial and determination of which such Court is constituted.

Special Courts where to be held.

IX. The Courts constituted under this Act shall be held at such place, or places, within the limits of their respective jurisdictions, as shall be considered most convenient.

Plaintiff and defendant in suits under Section V.

X. In every suit instituted under Section V. of this Act, the claimant of the waste land, or objector to the sale or other disposition of such land, shall appear as plaintiff; and the Collector or other Officer aforesaid shall appear as defendant on the part of Government. Either party may appear by pleader or by agent.

Proviso.

Provided that, if such other Officer as aforesaid be the presiding Officer of the Principal Civil Court of original jurisdiction in the District, the Local Government shall appoint some other Officer to appear as defendant in the case on its behalf. In any suit ordered to be instituted by the Local Government under Section VI. of this Act, the Government, by any Officer to be appointed for the purpose, shall appear as plaintiff; and the claimant or objector as aforesaid shall appear as defendant.

Plaintiff and defendant in suits under Section VI.

Proceedings regulated by Civil Procedure Code.

XI. In suits instituted under this Act, except as hereinafter provided, the proceedings shall be regulated, so far as they can be, by the Code of Civil Procedure.

Procedure before hearing of suit.

XII. The Court shall fix a day for the appearance of the parties, and for the hearing of the suit, of which due notice shall be given to the parties, or their agents; and on the day so fixed, the parties, or their agents, shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements. If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time before the day fixed for the hearing of the suit; and the Court shall issue a Subpœna,

requiring such witness to attend the Court on that day. It shall be competent to the Court to require the personal attendance of the claimant of the waste land, or objector, as aforesaid, on the day fixed for the hearing, or at any subsequent stage of the suit.

Procedure on hearing.

XIII. On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the claimant of the waste land, or the objector, or his agent (when his personal attendance is not required), and the witnesses of the parties; and upon such examination, and after inspecting the documents of the parties, and making any further enquiry that may appear necessary, shall proceed to pass such order in the case as it may consider just and proper.

No appeal or revision.

XIV. No appeal shall lie from any decision or order passed under this Act, nor shall any such decision or order be open to revision.

Reference of question of law, &c., to High Court, &c.

XV. If, on the trial of any suit under this Act any question of law, or of usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court shall entertain reasonable doubts, the Court may, either of its own motion, or on the application of any of the parties to the suit, draw up a statement of the case and submit it, with its own opinion, for the opinion of the High Court of Judicature, or of the highest Civil Court of Appeal and revision in the Territory in which the land is situate. Provided that it shall be the duty of every Court held under this Act to make such reference to such High Court, or Court of Appeal, if in any suit under this Act any question shall arise involving any principle of general importance, or the rights of a class.

Such reference obligatory in certain cases.

Court may proceed notwithstanding reference.

XVI. The Court may proceed in the case notwithstanding a reference to the High Court or other highest Civil Court of Appeal as aforesaid, and may pass an order contingent upon the opinion of the High Court, or other Court as aforesaid, on the point referred; but no final order for the sale or other disposition of the land in question in the suit, or for the admission or rejection of

any claim or objection which shall be before the Court in such suit, shall be passed, until the receipt of the order of the said High Court, or highest Civil Court of appeal.

Record of cases where to be deposited.

XVII. The record of cases disposed of by Courts constituted under this Act, shall be deposited amongst the records of the Principal Civil Court of original jurisdiction in the District in which the property in dispute is situate.

Limitation as to claims to land sold or dealt with.

XVIII. No claim to any land, or to compensation or damages in respect of any land, sold or otherwise dealt with on account Government as waste land, shall be received after the expiration of three years from the date on which such land shall have been delivered by the Government to the purchaser, or otherwise dealt with.

Provision for such claims if preferred within time.

If within three years after any lands have been delivered by the Government to the purchaser, or otherwise dealt with, any claimant or objector shall prefer a claim to the land so delivered, or otherwise dealt with, or an objection to such sale, or to compensation or damages in respect thereof in the Court constituted under this Act for the District in which the land is situate; and shall show good and sufficient reason for not having preferred his claim or objection to the Collector or other Officer as aforesaid, within the period limited under Section I. of this Act; such Court shall file the claim or objection, making the claimant or objector plaintiff, and the Collector of the District or other Officer as aforesaid (with like provision as aforesaid if such other Officer be the presiding Officer of the principal Civil Court of original jurisdiction in the District), the Defendant in the suit; and the foregoing provision of this Act shall be applicable to the trial and determination of the suit. The report of the Officer employed to give delivery, or to take possession on the part of Government, of the land sold or otherwise dealt with, shall be conclusive evidence as to the date on which such delivery was made, or possession was taken.

If claim established, possession not to be given, but compensation.

XIX. In any case in which the land has been sold, if the Court shall be of opinion that the claim of the claimant is established, the Court shall not award the claimant possession of the land in

dispute; but shall order him to receive from the Government Treasury, by way of compensation, a sum equal to the price at which the land was sold, in addition to the costs of suit.

When land has not been absolutely sold, or has been otherwise dealt with.

XX. If the land shall have been sold subject to any condition or reservation, or shall not have been sold, but shall have been otherwise dealt with on account of the Government, and the Court shall be of opinion that the claim to such land, or the objection of an objector, is established, the Court shall award the claimant or objector to receive such sum, in respect of his interest in such land, as shall be awarded in that behalf under the provisions of Act VI. of 1857 (*for the acquisition of lands for public purposes*); and thereupon the Local Government shall proceed under the said Act, to obtain an award of the value of such interest.

Award under the two last Sections to be in full satisfaction.

XXI. An award under any of the provisions of the two last preceding Sections, shall be in full satisfaction of the claim of the claimant or objector; and shall bar any future claim on his part, in respect to the land in suit, resting on the same cause of action, or on a cause of action which existed prior to the date of the sale or other disposition of the land on account of Government.

Government not barred from awarding compensation for land absolutely sold though claim be not preferred in time.

XXII. Nothing in this Act shall be held to prevent the Local Government from awarding to any claimant of waste land sold on account of Government, on proof to the satisfaction of the Local Government of the claim of such claimant (notwithstanding that he may not have preferred his claim either to the Collector or other Officer as aforesaid, or to the proper Court constituted under this Act, within the period prescribed by this Act), such amount of compensation for the said land, within the limit as to amount mentioned in Section XIX. of this Act, if the land have been sold not subject to any condition or reservation, as to such Local Government may seem proper.

Compensation for land sold subject to condition, if claim proved, though not preferred in time.

XXIII. If the land have been sold subject to any condition or reservation, or have been otherwise disposed of, on account of Government, and any claim to such land, or objection to the sale or other disposition of the land, shall be proved to the satisfaction of the Local Government, although not referred to the Collector or

other Officer as aforesaid, or to the Court constituted under this Act, within the period prescribed by this Act, the Local Government may award to such claimant or objector, such amount as to such Local Government may appear to be the value of the interest of such claimant or objector in such land.

Interpretation. Number. Gender.

XXIV. Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

BURMAH.—CIVIL PROCEDURE.

ACT NO. XXIV. OF 1863.

[*Received the assent of the G. G. on the 16th May*, 1863.

Recites expediency of amending Act I., 1863.

1, 2. Empowers G. G. in C. to invest courts 2nd, 3rd and 4th grades, &c., with cognizance of suits which belong to courts of lower grade; and (2) gives same appeal in such suits as in other suits.

3. Constitutes Court of Deputy Judicial Commissioner at Rangoon a Deputy Commissioner under this Act.

4, 5. Repeals the Code called "the Civil Code of the Province of Pegu," from 1st May, 1863; saving (5) proceedings had under that Code after that date.

An Act to amend Act I. 1863 (to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory).

Whereas it is expedient to amend Act I. of 1863 (*to define the jurisdiction, and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory*), it is enacted as follows:

Preamble.

I. It shall be lawful for the Governor General of India in Council to invest any Court in British Burmah, of the second, third, and fourth grades of Courts mentioned in Section II. of the said Act of 1863, with power to receive suits, and to take cognizance of other matters,

Governor General may invest certain Courts in British Burmah with power to try suits, &c., now cognizable by Courts of lower grade.

arising within the jurisdiction of the Court so invested, which from their amount, as well as in other respects, may be cognizable under the provisions of the said Act by a Court of a lower grade, and to try and determine the same, subject to all the provisions of the said Act.

Provision for appeals from orders and decisions in suits, &c., dealt with under preceding Section.

II. Appeals from orders and decisions passed by any Court invested as aforesaid, in suits of other matters of the nature described in the last preceding Section, shall lie to the Court to which appeals from orders and decisions passed by the said Court in the exercise of its ordinary jurisdiction lie under the said Act I. of 1863, and shall be subject to all the rules contained in the said Act in relation to such appeals.

Jurisdiction of Deputy Judicial Commissioner at Rangoon, and his Court.

III. The Court of the Deputy Judicial Commissioner at Rangoon shall, for the purposes of Act I. of 1863, be a Court of a Deputy Commissioner as constituted by the said Act; and the said Deputy Judicial Commissioner shall exercise the same jurisdiction in respect to receiving, trying, and determining suits and other matters arising within his jurisdiction as Deputy Judicial Commissioner, as a Deputy Commissioner is competent to exercise under the said Act.

Civil Code of Pegu repealed, and Act VIII. of 1859 substituted during certain period.

IV. The Code called the "Civil Code of the Province of Pegu," with exception to Chapter III. of the said Code as to the limitation of suits, and Chapter XXVII. relating to Stamps, shall be held to have been repealed from the Twentieth day of May, 1862; and on and after the said date, until the First day of May, 1863, Act VIII. of 1859 (*for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter*), as extended by the Chief Commissioner of British Burma to the Province of Pegu, shall be held to have been in force in that Province.

Provision as to order or decision passed, or proceeding held, by Courts in Pegu on or after the 20th May, 1862.

V. No order or decision passed, and no proceeding held by any Court in the Province of Pegu, or by any Appellate Court in relation to any such order or decision or proceeding, on or after the said Twentieth day of May, 1862, and before the said First day of May, 1863, shall be held to be

invalid merely by reason of such order or decision having been passed, or of such proceeding having been held under the said Act VIII. of 1859, as extended to the said Province by the Chief Commissioner of British Burmah, instead of under the Code called the Civil Code of the Province of Pegu, or *vice versâ*.

IMPRISONMENT OF CONVICTS IN CALCUTTA GAOL.

ACT NO. XXV. OF 1863.

[*Received the assent of the G. G. on the 16th May*, 1863.

Recites want of sufficient accommodation in House of Correction, &c.

1. Repeals Sections 47 to 52 of Act XVIII., 1862, except as to persons sentenced before passing of this Act.

2–6. Empowers Judges to sentence to rigorous imprisonment, &c., either in the House of Correction or the Great Gaol; and (3) in same manner as places of intermediate custody, in case of transportation or penal servitude; and (4) directs warrant to be made out accordingly, and Sheriff to carry it out; and (5) all Constables to assist, &c.; and (6) absolves Sheriff from all responsibilities, &c.

7. Empowers Calcutta Justic[illegible] of the Peace to pass sentences of imprisonment in same manner.

8, 9. Empowers Lieut.-Gover[illegible]or of Bengal to order transfer of prisoners from one Gaol to another under s[illegible]ecified circumstances, and in what manner; and (9) legalizes retrospectively s[illegible]ch transfers made before the Act.

An Act to empower Ju[illegible]ges of the High Court and other Authorities at Fort William [illegible] Bengal, to direct convicts to be imprisoned either in the Hou[illegible] of Correction, or the Great Gaol of Calcutta; and to authoriz[illegible]he transfer of prisoners, in certain cases, from the House of Cor[illegible]ction to the Great Gaol, and from the Great Gaol to the House [illegible]f Correction.

Repealed by Act XII., 1867.

CUSTO[illegible]S DUTIES.

ACT NO. [illegible]XVI. OF 1863.

[*Received the assent of [illegible]e G. G. on the 16th May*, 1863.

Recites expediency of amending [illegible]toms Duties.

1, 2. Alters duties on iron, win[illegible]nd liquors, porter, ale, beer, cider and similar fermented liquors; from (2) [illegible]May, 1863.

An Act to amend Act XI. of 1862 (to amend Act X. of 1860, to amend Act VII. of 1859, to alter the duties of Customs on Goods imported or exported by Sea).

This Act has not been repealed by Act XXV., 1865, probably because the duties are the same in both Acts, but Customs Duties are now contained in Act XVII., 1867, "The Indian Customs Duties Act."

INCOME TAX.

Act No. XXVII. of 1863.

[*Received the assent of the G. G. on the 16th May*, 1863.

Recites expediency of reducing the Income Tax.

1, 2. Reduces the Income Tax from 3 per cent. to 2 per cent.

An Act to further amend Act XXXII. of 1860 (for imposing Duties on profits arising from Property, Professions, Trades and Offices), and to amend Act XXXIX. of 1860 (to amend Act XXXII. of 1860), and Act XVI. of 1862 (to limit in certain cases the amount of assessment to the Duties chargeable after the Thirty-first day of July 1862, under Act XXXII. of 1860, and Act XXXIX. of 1860), and otherwise to modify the said Acts).

Expir[illegible].

STRAITS' SETTLEMENTS.—STAMP DUTIES.

Act No. XXVIII. of 1863.

[*Received the assent of the G. G. on the 16th May*, 1863.

Recites various notifications of G. G. in C. respecting Stamp Duties in Straits' Settlements.

1, 2. Act X., 1862, to be deemed not to have come into operation in Straits' Settlements before 1st January, 1863; but (2) shall, except Schedule B., be deemed to come into operation on that day.

3, 4. Empowers the Governor to fix and notify the rates of exchange into Straits' Currency at which the Indian Stamp Duties shall be paid; and (4) legalizes Duties already paid under previous notification; and Sections 3 and 4 of this Act to be read as part of Act 1862.

An Act to remove doubts as to the operation of Act X. of 1862 (to consolidate and amend the law relating to Stamp Duties) in the Settlement of Prince of Wales' Island, Singapore, and Malacca, between the First day of November, 1862, and the First day of January, 1863; and respecting the rate of exchange for payment of Stamp Duties, in the Currency of India, in the said Settlement.

Preamble.

Whereas by a Notification of the Governor General of India in Council, dated the Thirtieth day of May, 1862, it was directed that all Deeds, Instruments, or Writings, executed in the Straits' Settlement, should be exempt from the Duties prescribed in Act X. of 1862 (*to consolidate and amend the law relating to Stamp Duties*); and whereas by another Notification of the Governor General of India in Council, dated the First day of November, 1862, it was ordered that the temporary suspension of the operation of the said Act X. of 1862 in the Straits' Settlement, under the said Notification dated the Thirtieth of May 1862, should cease and determine from the said First day of November 1862; and whereas by a further Notification of the Governor General of India in Council dated the Sixth of November 1862, His Excellency in Council was pleased to exempt, until further orders, all Deeds, Instruments, and Writings, enumerated in Schedule B. of the said Act X. of 1862, from the Duties prescribed in that Schedule; and whereas, afterwards, the Governor of the Straits' Settlement suspended the operation of the said Act X. of 1862 in the said Settlement, until the First day of January 1863; and whereas, in consequence of such suspension of the operation of the said Act many penalties have been incurred and many Deeds, Instruments, and Writings, have been rendered invalid, or inadmissible in evidence, and it is expedient that such effects should be removed; and whereas it is also expedient to remove all doubt as to the rate of exchange for the payment of Stamp Duties in the Currency of India, in the said Settlement, it is enacted as follows:

Act X. of 1862 not in operation in Straits' Settlement before 1st January, 1863.

I. The said Act X. of 1862, shall be held not to have come into operation in the said Settlement before the First day of January, 1863.

Operation of Act, and of Schedule B of same, when to commence.

II. The said Act X. of 1862, except Schedule B, shall be held to have come into operation in the said Settlement on the said First day of January, 1863. The said Schedule B shall come into operation in the said Settlement from such time as the Governor General of India in Council shall, under the authority vested in him by Section XXXIII. of the said Act X. of 1862, by an order to be published in the "Calcutta Gazette," appoint.

Rate of exchange for payment of Stamp Duties, in India Currency, to be fixed by Governor.

III. For the purpose of fixing the rate at which Stamp Duties, payable in the Currency of India, under the said Act X. of 1862, on Deeds, Instruments, and Writings, which are liable to Stamp Duty in the said Settlement, shall be calculated and paid, when the Deeds, Instruments, or, Writings, in respect of which such Duties are payable, are Deeds, Instruments, or Writings, in which the amount or value on which the Stamps Duties is payable is not expressed or estimated in such Currency, it shall be lawful for the Governor of the said Settlement, from time to time by a Notification to be published in the Official Gazette, to fix the rate at which Stamp Duties under the said Act X. of 1862 will be taken by Government on such Deeds, Instruments, and Writings, as aforesaid and every such Deed, Instrument, and Writing, which shall be stamped with the full and proper stamp or stamps required by the said Act X. of 1862, calculated according to the rate of exchange which shall have been fixed by the said Governor, by a Notification as aforesaid (which Notification shall be in force, and not rescinded by any other such Notification as aforesaid, at the time when such Deed, Instrument, or Writing, became liable to Stamp Duty), shall be held to be duly stamped under the said Act X. of 1862.

Provision as to Deeds, &c., stamped before the coming into operation of this and the last Section.

IV. Every Deed, Instrument or Writing, liable to Stamp Duty in the said Settlement, which before the time when the last preceding Section and this Section of this Act shall come into operation, shall have been stamped with the proper and proper stamp or stamps required by the said Act X. of 1862, calculated according to the rate fixed by a Notification of the said Governor before the time when the said Sections shall come into operation (which

Notification shall be in force, and shall not have been rescinded by any other such Notification, at the time when such Deed, Instrument, or Writing, became liable to Stamp Duty), shall be held to have been duly stamped under the said Act X. of 1862.

V. Section III. and Section IV. of this Act shall be read and taken as part of the said Act X. of 1862, and shall come into operation on the First day of June, 1863.

Commencement of Sections III. and IV.

BANKS OF BENGAL, MADRAS, BOMBAY, AND SUB-TREASURERS.

ACT No. XXIX. OF 1863.

[*Received the assent of the G. G. on the 7th Dec.*, 1863.

Recites agreement under which the Banks transact the Treasury business.

1. Makes receipt of the Secretary to the Bank equivalent to receipt of Sub-Treasurer; and (2) in all Acts and Regulations, the words Secretary of Bank, &c., to be read in place of Sub-Treasurer, &c.

An Act to declare rec[e]ipts of the Banks of Bengal, Madras, and Bombay to be suffi[c]ient in lieu of the receipts of the Sub-Treasurers of Fort William, Fort St. George, and Bombay respectively.

Preamble.

Whereas under the pr[o]visions of Act XXIV. of 1861 (*to enable* [t]*he Banks of Bengal, Madras, and Bombay* [t]*o enter into arrangements with the Government for managing* [t]*he issue, payment, and exchange of Government Currency* [n]*otes and certain business hitherto transacted by the Governme*[n]*t Treasuries*) the Bank of Bengal has, through the Governo[r] General of India in Council, entered into an agreement w[i]th the Secretary of State for India in Council, that so much [o]f the business hitherto generally transacted at the General [T]reasury of the Government at the Presidency of Fort William [a]s consists of receiving and paying money on behalf of th[e] Supreme Government and the Government of Bengal sh[a]ll be carried on and transacted by the said Bank: and whereas t[h]e Bank of Madras and the Bank of Bombay have entered in[to] similar agreements through the Governor in Council of M[a]dras and the Governor in Council

of Bombay, with relation to the business hitherto generally transacted at the Treasuries at Madras and Bombay respectively: and whereas the office of Sub-Treasurer at Fort William and the office of Sub-Treasurer at Fort St. George and the office of Sub-Treasurer at Bombay have been abolished, and the business generally transacted at these offices has for some time passed been and is now under the said agreements carried on and transacted by the said Bank of Bengal, Bank of Madras, and Bank of Bombay respectively: and whereas doubts have been entertained whether in certain cases, in which during the existence of the office of Sub-Treasurer the receipt of the Sub-Treasurer was required, the receipt of the Secretary of the Bank of Bengal, or of the Secretary of the Bank of Madras, or of the Secretary of the Bank of Bombay, as the case may be, is a good and sufficient receipt and discharge to the person to whom the same is given: and whereas it is desirable that these doubts should be removed, it is enacted as follows:

Receipts of Secretaries of the Banks to be good in lieu of those of the Sub-Treasuries at the Presidencies.

I. The receipt of the Secretary of the Bank of Bengal, of the Secretary of the Bank of Madras, and of the Secretary of the Bank of Bombay (as the case may be), granted under the circumstances aforesaid, shall be deemed to be, and always to have been, as good and sufficient a receipt and discharge to the person to whom the same is granted, as the receipt of the Sub-Treasurer of Fort William, or of the Sub-Treasurer of Fort St. George, or of the Sub-Treasurer of Bombay would have been if the office of the said Sub-Treasurer had not been abolished.

All Acts in which the Sub-Treasurers at the Presidencies are named to be read as if the Banks' Secretaries were named instead.

II. In every Act and Regulation in which the words Sub-Treasurer of Fort William, Sub-Treasurer of Fort St. George, or Sub-Treasurer of Bombay occur in connection with the payment of money required to be paid to, or of any act required to be performed by, any one of the said Sub-Treasurers, such Act or Regulation shall hereafter be read as if the words Secretary of the Bank of Bengal, or Secretary of the Bank of Madras, and Secretary of the Bank of Bombay occurred therein, instead of the words Sub-Treasurer of Fort William, Sub-Treasurer of Fort St. George, and Sub-Treasurer of Bombay respectively.

OUDH COMMISSIONERS OF ENQUIRY.

ACT No. XXX. OF 1863.

[*Received the assent of the G. G. on the* 16*th Dec.*, 1863.

Recites demands made on Government in respect of claims on late Government of Oudh.

1—3. Authorizes the G. G. in C. to issue commission of enquiry; or (2) to appoint a sole Commissioner; and (3) continues commission notwithstanding death or resignation of individual Commissioner, and authorizes Government to fill up vacancies.

4—10. Place of sitting of Commissioners to be fixed by G. G. in C.; and (5) Commissioners to proceed as nearly as possible as in an ordinary suit under Civil Code; and (6) empowers Commissioners to summon witnesses, &c.; and (7) to administer oath to them; and (8) gives them the same powers for punishing witnesses, as might be exercised by the Court of Civil Jurisdiction of the District where the witness resides; (9) expenses of witness to be paid and how; and (10) persons giving false evidence to be punishable under Section 193 of the Indian Penal Code.

An Act to provide for the appointment of Commissioners to enquire into certain claims against the late Native Government of Oudh.

Obsolete.

GAZETTE OF INDIA PUBLICATION OF ORDERS.

ACT No. XXXI. OF 1863.

[*Received the assent of the G. G. on the* 16*th Dec.*, 1863.

Recites the establishment of a new Gazette—the Gazette of India.

1. Declares that official publication in the Gazette of India shall avail as if publication in Presidency Gazett

An Act to give effect to t publication of certain orders and other matters in the Gazette f India.

Whereas the Governor eneral of India in Council has resolved publish an Official Gazette to be called t Gazette of India containing such orders, notifications, and otl matters as the Governor General of India in Council shall ect to be inserted therein, it is enacted as follows:

Preamble.

I. When in any Regulation or Act now in operation, or in any Rule having the force of law, it is directed that any order, notification or other matter shall be published in the Official Gazette of any Presidency or place, such order, notification, or other matter shall be deemed to be duly published in accordance with the requirements of the law, if it be published either in the Gazette in which it would have appeared but for the passing of this Act, or in the Gazette of India under the directions of the Governor General of India in Council.

Publication in the Gazette of India to have the effect of publication in any other Gazette in which publication is prescribed by any law now in force.

HIGH COURT FEES.

Act No. XXXII. of 1863.

[*Received the assent of the G. G. on the* 16*th Dec.*, 1863.

Continues Act XX., 1862, until notification of its expiry made by G. G. in C.

An Act to continue in force Act XX. of 1862 (to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII. of 1859 in the said High Court.

Whereas it is expedient that Act XX. of 1862 (*to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII. of* 1859 *in the said High Court*), should continue in force for a further period from the First day of January, 1864, it is enacted as follows:

Preamble.

I. Act XX. of 1862 shall continue in force until such time as the Governor General of India in Council shall by notification published in the Gazette of India appoint for its expiry.

Act XX. of 1862 continued till such date as the Governor General in Council shall appoint.

POORWAH AND KHUDDEE IN BANDA.

ACT No. I. OF 1864.

[*Received the assent of the G. G. on the 24th Feb.*, 1864.

Recites expediency of administering Poorwah and Khuddee under the General Regulations.

1, 2. Extends to these Jagheers the Laws and Regulations under which the rest of the district of Banda is administered; except (2) that pending suits and proceedings shall be continued as if this Act had not passed.

3—5. But remands made after decision and on appeal to go to same Court as if proceedings were commenced after this Act; and (4) same as to execution of decrees; and (5) same as to appeals after from decrees and orders before the passing of the Act.

6. Act to take effect from date to be fixed by Lieutenant-Governor of the North-Western Provinces.

Preamble.

Whereas the Jagheers of Poorwah and Khuddee in the District of Banda are not subject to the General Regulations, and it is expedient that the said Jagheers should be administered on the same system as prevails in the rest of the District, it is enacted as follows:

Laws and Regulations for internal administration of Banda to have full force in Poorwah and Khuddee.

I. The Laws and Regulations established for the internal administration of the District of Banda shall have full force and effect in the Jagheers of Poorwah and Khuddee, and the administration of Civil and Criminal Justice, and the superintendence of the settlement and realization of the public revenue, and of all matters relating to rent in the said Jagheers, are hereby vested in the Officers who are or may hereafter be appointed by the Lieutenant-Governor of the North-Western Provinces for the said District of Banda.

Saving as to suits pending at the time of passing of this Act.

II. All suits and proceedings, whether in appeal or otherwise, arising in the said Jagheers, and which, at the time of the Act coming into operation, shall be pending in any Court, or before any Officer, shall be heard and determined in the same manner as if this Act had not been passed.

Suits remanded by any Appellate Court.

III. Any suit which, before the coming into operation of this Act, shall have been determined and which shall have been or shall be remanded by any

Appellate Court, shall be tried before the Court which for the time being would be competent to try such a suit if instituted after the passing of this Act.

Execution of decrees.

IV. All applications for execution of decrees or orders, which but for the passing of this Act, would have been made to any Court or Officer existing at the time of the passing of this Act, shall be made to the Court or Officer who would have had jurisdiction in respect of the matter in dispute, had the suit or proceeding been instituted after the coming into operation of this Act.

Appeals from decrees or orders passed before passing of Act.

V. All appeals from decrees or orders passed before the coming into operation of this Act shall be received, heard, and determined by the Court or Officer who would have had jurisdiction over such appeals, had the decrees or orders to which they relate been passed after the coming into operation of this Act.

Commencement of Act.

VI. This Act shall take effect from such date as the Lieutenant-Governor of the North-Western Provinces shall fix by an order to be published in the Official Gazette.

ADEN.—ADMINISTRATION OF JUSTICE.

ACT No. II. OF 1864.

[*Received the assent of the G. on the 12th Feb.*, 1864.

Recites expediency of providing a proc ure for the Resident at Aden.

1. Interprets the words "Resident," Assistant Resident," and "Court of the Resident," &c.

2—4. Vests the administration of ivil Justice in the Court of the Resident; and (3) gives him original jur liction unlimited, with power (4) to distribute the business commenced in h Court among his Assistants, whose jurisdiction also is unlimited.

5—7. Gives an appeal from Assistant a what suits relating to immoveable property, to Resident; who (6) on s appeals shall have powers of a District Judge, &c.; and (7) no appe to lie from Assistant in suits of less value.

8—13. No appeal at all to lie fr Resident, but in suits for value exceeding Rs. 1,000, whether before him appeal or otherwise. Resident may state case for opinion of High Court o question of law, or construction of a document; and (9) may pass orders ct to such opinion; and (10) cases

so referred to High Court to be decided by two Judges; on (11) argument; and (12) decision of High Court to be transmitted under seal of the Court, &c., to Resident; and (13) costs to be costs in the cause.

14. Gives the Resident all the powers of Small Cause Court in causes within Small Cause Court Act.

15, 16. In Civil Justice, the Law to be the Laws and Regulations of the Bombay Presidency; and (16) the procedure to be the Code of Civil Procedure, except where otherwise provided.

17—19. Vests the administration of Criminal Justice in the Resident; and (18) Governor in Bombay may invest Assistants with powers of Magistrate, &c.; (19) and Assistant may punish with imprisonment not exceeding six months, and fine not exceeding Rs. 500, not appealable, but subject to special discretionary order of Resident; and appeal to lie in all cases where the punishment exceeds that extent.

20. Gives the Resident all the powers of a Court of Session, and of a Magistrate, except in cases triable before himself at a Court of Session.

21, 22. Directs the Resident to make general gaol deliveries at convenient periods, and empowers him to try European British subjects, except for offences punishable with death; and (22) for such offences, European British subjects to be committed for trial to the High Court.

23—27. Establishes the Code of Criminal Procedure for Aden; and (24) entitles Europeans and Americans to a jury; and (25) provides for making a Jury List; and (26) for the publication of such List; subject (27) to all the provisions of the Code respecting Juries.

28. Sentence of death not to be carried out till confirmed by High Court, which may commute the sentence.

29. No appeal to lie in Criminal cases.

30. Provides for a review on points of Law, or on certificate of Advocate General.

31. Empowers the High Court to make General Rules for the Court of the Resident, &c.

Preamble.

Whereas the administration of Civil and Criminal Justice at Aden is now entrusted to the Resident and in subordination to him to the Assistant Resident; and whereas Her Majesty has by Her Letters Patent, dated the Twenty-second June, 1860, appointed the Resident at Aden to be Judge of Her Majesty's Vice Admiralty Court at Aden for the purposes of, and according to, the provisions of the Statute 12 and 13 Vic., c. ; and whereas the Criminal Law to be administered at Aden provided for by the Indian Penal Code, but the law to be administered at Aden in Civil matters, and the precise nature of the Criminal and Civil jurisdiction of the Resident, and the proper course of procedure in his Court,

have never been defined, and it is expedient that they should be provided for; and whereas at present judgments and proceedings of the Resident at Aden are not subject to the superintendence or revision of any Court of Justice, except so far as they are subject to appeal to Her Majesty in Council, and it is expedient to provide for the superintendence or revision of certain of such judgments and proceedings by the High Court of Bombay, it is enacted as follows:

Interpretation.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant thereto, that is to say:

"Resident."

The word "Resident" denotes the Chief Civil Officer at Aden appointed by the Government by whatever designation such Officer may be called, and includes any Acting Resident or Officer acting temporarily as such Chief Civil Officer.

"Assistant Resident."

The words "Assistant Resident" denote any Officer appointed by the Government to assist the Resident at Aden by whatever designation such Officer may be called, and includes an Acting Assistant.

"Court of the Resident."

The words "Court of the Resident" include the Court of any Assistant Resident.

Number.

Words importing the singular number include the plural number, and words importing the plural number include the singular number.

Gender.

Words importing the masculine gender include females.

Civil Jurisdiction.

Administration of Civil Justice vested in the Court of the Resident.

II. The administration of Civil Justice at Aden is hereby declared to be vested in the Court of the Resident.

Resident may try, in the first instance, all cases instituted in the Court of the Resident.

III. The Resident may hear and determine, in the first instance, all cases instituted in the Court of the Resident of whatever nature and whatever may be the amount or value of the property in dispute.

IV. The Assistant Residents shall have power to hear and determine, in the first instance, all cases instituted in the Court of the Resident of whatever nature and whatever may be the amount or value of the property in dispute. The Resident may from time to time direct in what manner the cases instituted in his Court shall be distributed amongst the Assistant Residents.

Assistant Residents may try cases allotted to them.

V. When any suit which relates to immoveable property, or in which the claim, estimated according to any Law for the valuation of claims for the time being in force, shall exceed five hundred Rupees in value, is tried in the first instance by an Assistant Resident, an appeal shall lie from his decision to the Resident. An appeal shall also lie to the Resident from all orders passed by an Assistant Resident in the execution of a decree or other order from which, had the order been passed by a Court subordinate to the Court of a District Judge in the Presidency of Bombay, an appeal would have been allowed to the District Judge, as well as from all orders passed by an Assistant Resident in cases other than suits as defined in the Code of Civil Procedure.

Appeal in what cases to lie from Assistant Resident to Resident.

VI. For the hearing and determination of appeals from decisions and orders under the last preceding Section, the Resident shall (save as herein is otherwise provided) possess and exercise the powers of a District Judge in the Bombay Presidency with reference to the Courts subordinate to him.

Powers of Resident in hearing appeals.

VII. No appeal shall lie from the decision of an Assistant Resident in any suit not relating to immoveable property in which the claim estimated as aforesaid shall not exceed five hundred Rupees in value; but the Resident may, within the period allowed for appeal in appealable cases, call for any proceeding of the Assistant Resident at any stage thereof, and may pass such orders thereon as he may think fit.

No appeal in other cases.

VIII. No appeal shall lie from any decision or order of the Resident given or made by him, whether in the exercise of his original jurisdiction, or

No appeal from Resident.

in the exercise of his jurisdiction as a Court of Appeal, or of Revision; but if in the trial of any suit in which the claim estimated as aforesaid shall not exceed one thousand Rupees in value, any question of law or of usage having the force of law or of the construction of a document affecting the merits of the decision shall arise, on which the Resident shall entertain doubts, the Resident may, either of his own motion, or on the application of any of the parties to the suit, draw up a statement of the case and submit it, with his own opinion, for the decision of the High Court of Judicature at Bombay: and if in the trial of any suit or the hearing of an appeal in any suit in which the claim, estimated as aforesaid, shall exceed one thousand Rupees in value, any question of fact or of law or of usage having the force of law or of the construction of a document affecting the merits of the decision shall arise, the Resident shall, on the application of any of the parties to the suit, or he may of his own motion, draw up a statement of the case and submit it with his own opinion for the decision of the said High Court.

But he may refer question of law, &c., to High Court.

IX. The Resident may proceed in the case notwithstanding a reference to the High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the High Court, until the receipt of the order of that Court.

Resident may pass decree contingent upon the opinion of the High Court, pending which execution not to issue.

X. Cases referred for the opinion of the High Court shall be heard by two or more Judges of that Court. Before giving judgment, the High Court may call for and peruse the whole or any part of the proceedings of the Court of the Resident, but shall not be bound so to do.

Full bench of the High Court to decide cases referred under this Act.

XI. The parties to the case may appear and be heard in the High Court in person or by a pleader.

Parties may appear and be heard in person or by pleader.

XII. The High Court, when it has heard and considered the case, shall transmit to the Resident a copy of its judgment, under the seal of the Court, and the signature of the Registrar; and the

Decision of High Court, how to be transmitted.

Resident shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

Costs of reference to High Court.

XIII. Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

Resident to have powers of a Small Cause Court.

XIV. When any suit tried in the first instance by the Resident is of such a nature as to be cognizable under Act XLII. of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature, established by Royal Charter*), the Resident shall, in such suit, have all the powers conferred on, and shall be guided by all the provisions applicable to, a Court of Small Causes constituted within the Presidency of Bombay under the said Act or any other Act for the time being in force not being an Act relating to Courts of Small Causes in the Presidency Towns: and every Assistant Resident who shall have been vested by the Governor of Bombay in Council with the powers of a Judge of a Court of Small Causes as defined in the said Act XLII. of 1860, or any Act passed in supersession thereof, shall have the like powers and be guided by the like provisions in any suit tried by him in the first instance and of a nature cognizable under the said Act XLII. of 1860, any thing in Section V. of this Act contained to the contrary notwithstanding.

Administration of Civil Justice to be according to spirit and principles of the Bombay Laws and Regulations.

XV. In the administration of Civil Justice, the Court of the Resident shall be guided by the spirit and principles of the Laws and Regulations in force in the Presidency of Bombay, and administered in the Courts of that Presidency not established by Royal Charter, and in the High Court in the exercise of its jurisdiction as a Court of appeal from those Courts.

CIVIL PROCEDURE.

Code of Civil Procedure applicable.

XVI. Except as otherwise provided in this Act, the proceedings in suits and cases of every description between party and party brought in the Court of the Resident shall be regulated by the Code of Civil Procedure, and by any other Act or Acts in relation to Civil Procedure in force for the time being.

Criminal Jurisdiction.

XVII. The administration of Criminal Justice at Aden is hereby declared to be vested in the Court of the Resident, save as is herein otherwise provided.

Administration of Criminal Justice vested in Court of the Resident, subject to proviso.

XVIII. The Governor of Bombay in Council may invest any Assistant Resident with the powers of a Magistrate, or of a subordinate Magistrate of the first or second class, as described in the Code of Criminal Procedure, and such Assistant Resident shall exercise such powers under the said Code, but subject to the provisions of this Act.

Governor of Bombay may give Assistant Residents certain powers.

XIX. In every case tried by an Assistant Resident in which the punishment awarded shall be imprisonment for a period exceeding six months, with or without fine, or shall be only a fine exceeding five hundred Rupees, an appeal shall lie from the sentence of the Assistant Resident to the Resident. No appeal shall lie from the sentence of an Assistant Resident in any case in which the punishment awarded shall be imprisonment for a period not exceeding six months with or without fine, or shall be only a fine not exceeding five hundred Rupees but the Resident may in all cases within the period allowed for appeal in appealable cases, call for any proceedings whatever of the Assistant Resident at any stage thereof, and may pass such order thereon as he may think fit.

Appeal from Assistant Resident to Resident, in what cases.

XX. The Resident shall except as in this Act is otherwise provided exercise all the powers of a Court of Session as defined in the Code of Criminal Procedure, and he may also when it shall seem to him proper so to do, exercise the powers of a Magistrate as defined in the said Code, except in cases triable before himself as a Court of Session.

Resident to exercise powers of Court of Session, and also of a Magistrate.

XXI. The Resident in the exercise of his powers as a Court of Session shall hold gaol deliveries at convenient periods, of which due notice shall be given, for the trial of persons charged with offences punishable under the Indian Penal Code, or under any other law in force for the time being, who may be committed to take

As a Court of Session, to hold gaol deliveries.

their trial before him as a Court of Session. Provided that the Resident shall not have power to try any European British subject charged with an offence punishable with death under the said Code. The commitment of any European British subject charged with any such offence shall be made to the High Court at Bombay. In all other cases the commitments made within the limits of the jurisdiction of the Court of the Resident for offences punishable under the Indian Penal Code, shall be made to the Court of the Resident.

European British subjects charged with offences punishable with death, to be committed for trial to High Court at Bombay.

XXII. If any European British subject shall be charged in Aden with any offence (other than an offence punishable with death under the Indian Penal Code) which a Justice of the Peace shall not be competent to punish, and there shall be sufficient grounds for committing him for trial, such European British subject shall be committed to the Court of the Resident, and shall be tried by the Resident.

Commitment and trial of such subjects, when charged with offences other than those punishable with death.

CRIMINAL PROCEDURE.

XXIII. Save as in this Act otherwise provided, the proceedings in all criminal cases of any description brought in any Court in Aden shall be regulated by the Code of Criminal Procedure.

Proceedings in Criminal cases how to be regulated.

XXIV. Criminal trials before the Resident as a Court of Session, in which a European (whether a British subject or not) or an American is the accused person or one of the accused persons, shall be by jury, and in such case the jury, if such European or American shall desire it, shall consist o at least one half Europeans or Americans, if such a jury can procured.

Trial of European or American by the Resident to be by Jury.

XXV. The Resident shall rom time to time prepare and make out i alphabetical order, a list of persons res ng at Aden who are in the judgment of the Resident qu fied from their education and character to serve as Jurors. e list shall contain the names, places of abode, and quality or iness of every such person, and shall mention the race to whicl belongs.

List of Jurors.

Publication of List.

XXVI. Copies of such list shall be stuck up in the Court of the Resident, and every such copy shall have subjoined to it a notice stating that objections to the list will be heard and determined by the Resident at a time and place mentioned in the notice.

Provisions of Criminal Procedure Code to apply to Jurors.

XXVII. All the provisions of the Criminal Procedure Code as to Jurors and the list of Jurors shall be applied, so far as the same can be applied respectively, to Jurors and the list of Jurors under this Act: provided that no person shall be exempt from the liability to serve as a Juror on the ground only of his being in the Military Service: provided also that the Jurors shall be summoned by the Resident.

Persons in Military Service not exempted from serving as Jurors.

Execution or commutation of sentence of death.

XXVIII. If on any trial, sentence of death shall be passed by the Resident, such sentence shall not be carried into execution until it shall have been confirmed by the High Court at Bombay. It shall be lawful for the High Court at Bombay, in any case in which it shall seem proper so to do, commute a sentence of death to a sentence of transportation for life, or for any shorter period not less than seven years.

No appeal from order of Resident, but he may reserve points for High Court.

XXIX. No appeal shall lie from an order or sentence passed by the Resident in any Criminal case. But it shall be at the discretion of the Resident to reserve any point or points of law for the opinion of the said High Court.

Review of case by High Court.

XXX. On such point or points of law being so reserved as in the last preceding Section mentioned, or on its being certifie[d] by the Advocate General at Bombay that in his judgment th[ere] is an error in the decision of a point or points of law decided b[y] the Resident, or that a point of law decided by the said Reside[nt] should be further considered, the said High Court shall have f[ull] power and authority to review the case or such part of it as [may] be necessary, and finally determine such point of law [and] thereupon to pass such judgment and sentence as [to] the said High Court shall seem right.

General Rules.

XXXI. The High Court at Bombay shall have power to make and issue General Rules for regulating the practice and proceedings of the Court of the Resident, and also to frame forms for every proceeding in the said Court for which the said High Court shall think it necessary that a form should be provided, for keeping all books, entries, and accounts to be kept by the Officers, and for the preparation and submission of any statements to be prepared and submitted by the Court of the Resident, and from time to time to alter any such rule or form: provided that such rules and form shall not be inconsistent with the provisions of this Act, or of any other law in force.

High Court to frame rules for Resident's Court.

FOREIGNERS.

Act No. III. of 1864.

[*Received the assent of the G. G. on the 12th Feb.*, 1864.

Recites the expediency of enabling the Government to prevent Foreigners residing, &c., in British India.

1. Interprets the words "British India," "Local Government," "Foreigner," "Magistrate of the District," "Vessel," and words of gender and number.

2. On the question under this Act, whether a person is a Foreigner, he is to prove he is not.

3, 4. Empowers the Government of India or any Local Government to order a Foreigner to remove himself out of India; and (4) any Foreigner not carrying out such order, or returning without license, may be apprehended and detained.

5. Empowers the Governor General in Council to put this Act in operation in any part of India, by a Notification in the "Gazette of India," except as against Foreign Ministers and Consuls.

6—8. Requires Foreigners on a[rri]val at any place or port under the operation of the Act to report him[self] to the Commissioner of Police, &c.; which report (7) shall be in writing, [wi]th particulars specified, but (8) not to apply to Commanders of vessels, so l[ong] as they remain such.

9. Foreigner not reporting hims[elf] may be dealt with as a Foreigner without license.

10—13. Where this Act is in forc[e] no Foreigner to pass or travel without license; (11) under the signature o[f] officer empowered to sign; and (12) which shall state particulars specified [in] (13) may be subject to conditions, and be revoked.

14—16. Foreigner travelling without license, or contrary to license, may be apprehended without warrant, by any Magistrate, European Commissioned Officer, or Member of a Volunteer Corps, whilst on duty, or Police Officer; and (15) shall be delivered over as soon as possible to Magistrate, who shall report to Government, &c.; but (16) may be admitted to bail.

17. Government may order deportation of person apprehended.

18, 19. Empowers the Government of India, and (19) the Local Governments, to prohibit persons not being natural-born subjects of Her Majesty, from travelling, &c., without license.

20—23. Empowers specified officers to board vessels to ascertain if Foreigners be on board, and requires Commanders to give information; and (21) subjects Commander to penalty if he give false information; and (22) to fine if he refuses to comply with Act; and (23) makes intentional obstruction of officer an offence.

24. Fines under the Act may be recovered, how.

25. Empowers the Governments to exempt any person or class of persons from the operation of the Act.

Preamble.

Whereas it is expedient to make provision to enable the Government to prevent the subjects of Foreign States from residing or sojourning in British India, or from passing through or travelling therein, without the consent of the Government, it is enacted as follows:

Interpretation.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:

"British India."

The words "British India" shall denote the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, Chap. 106, entitled "An Act for the better Government of India."

"Local Government."

The words "Local Government," shall denote the persons authorized to administer the Executive Government in any part of British India, or the Chief Executive Office of any part of British India under the immediate administration of the Governor General of India in Council, when such Chief Executive Officer shall, by an order of the Governor General of India in Council published in the Gazette of India, be authorized to exercise the powers vested by this Act in a Local Government.

"Foreigner."

The word "Foreigner" shall denote a person, not being either a natural-born subject of Her Majesty

within the meaning of the Statute 3 and 4 William IV., Chapter LXXXV., Section 81, or a Native of British India.

"Magistrate of the District." The words "the Magistrate of the District" shall denote the Chief Officer charged with the Executive administration of a District and exercising the powers of a Magistrate, by whatever designation the Chief Officer charged with the Executive administration is styled, or, in the absence of such Officer from the Station at which his Court is usually held, the Senior Officer at the Station exercising the powers of a Magistrate as defined in the Code of Criminal Procedure.

"Vessel." The word "Vessel" shall include any thing made for the conveyance by water of human beings or property.

Number. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender. Words importing the masculine gender shall include females.

Proof of being a Foreigner. II. If a question shall arise whether any person alleged to be a Foreigner and to be subject to the provisions of this Act is a Foreigner or not, or is or is not subject to the provisions of this Act, the onus of proving that such person is not a Foreigner, or is not subject to the provisions of this Act, shall lie upon such person.

Government may order any Foreigner to remove himself. III. The Governor General of India in Council may, by writing, order any Foreigner to remove himself from British India, or to remove himself therefrom by a particular route to be specified in the order; and any Local Government may, by writing, make the like order with reference to any Foreigner within the jurisdiction of such Governmen

Foreigner refusing to remove, or returning without license after removal, may be apprehended and detained. IV. If any Foreigner or red to remove himself from British Indi or ordered to remove himself therefrom by a particular route, shall neglect or refuse so to do; or if any Foreigner, having rem ved himself from British India in consequence of an der issued under any of the provisions of this Act, or ha been removed from British

India under any of the said provisions, shall wilfully return thereto without a license in writing granted by the Governor General of India in Council or by the Local Government under whose order he shall have removed himself or been removed, such Foreigner may be apprehended and detained in safe custody, until he shall be discharged therefrom by order of the Governor General of India in Council, or of the Local Government within whose jurisdiction he shall be so apprehended or detained, upon such terms and conditions as the said Governor General of India in Council or Local Government shall deem sufficient for the peace and security of British India, and of the Allies of Her Majesty, and of the neighbouring Princes and States.

Governor General may order all the provisions of this Act to be in force in British India, or in any part thereof.

V. Whenever the Governor General of India in Council shall consider it necessary to take further precautions in respect of Foreigners residing or travelling in British India or any part thereof, it shall be lawful for the Governor General of India in Council, by a Notification published in the Gazette of India, to order that the provisions of this and the subsequent Sections of this Act shall be in force in British India, or in such part thereof as shall be specified in such Notification, for such period as shall be therein declared; and thereupon, and for such period, the whole of this Act including this and the subsequent Sections shall have full force and effect in British India, or such part thereof as shall have been so specified. The Governor General of India in Council may from time to time, by a Notification published as aforesaid, cancel or alter any former Notification which may still be in force, or may extend the period declared therein. Provided that none of the provisions of this or the subsequent Sections of this A shall extend to any Foreign Minister duly accredited by hi Government, to any Consul or Vice-Consul, to any person und the age of fourteen years, or to any person in the service of Her Majesty.

Proviso.

Every Foreigner to report his arrival in India in certain cases.

VI. Every Foreigner on arriving in any part of British India in which all e provisions of this Act are for the time b in force under an order issued as provide n the last preceding Section,

from any port or place not within British India, or from any port or place within British India where all the provisions of this Act are not in force, shall, if he arrive at a Presidency Town, forthwith report himself to the Commissioner of Police of such Town, or, if he arrive at any other place, then he shall forthwith report himself to the Magistrate of the District, or to such other Officer as shall be appointed to receive such reports, by the Governor General of India in Council, or by the Local Government of such place.

What to be stated in the report.

VII. The report shall be in writing, and shall be signed by the person reporting himself, and shall specify his name, or names, the Nation to which he belongs, the place from which he shall have come, the place or places of his destination, the object of his pursuit, and the date of his arrival in such Presidency Town, or other place. The report shall be recorded by the Officer to whom it is made.

Foreigners being Masters of vessels or employed therein, to report themselves when they cease to be so employed.

VIII. The provisions of the last two preceding Sections shall not extend to any person being the Master or Commander of a vessel or employed therein, but if any such person shall be in any part of British India in which all the provisions of this Act are for the time being in force, after he shall have ceased to be actually employed in a vessel, he shall forthwith report himself in manner aforesaid.

Foreigners neglecting to report themselves, may be dealt with in like manner as Foreigners travelling without a license.

IX. If any Foreigner shall neglect to report himself as required by this Act, he may be dealt with in the manner hereinafter provided in respect of Foreigners travelling without a license.

No Foreigner to travel in India without a license.

X. No Foreigner shall travel in or pass through any part of British India in which all the provisions of this Act are for the time being in force without a license.

License by whom to be granted.

XI. Licenses under this Act may be granted by the Governor General of India in Council, or by any of the Local Governments, under the signature of a Secretary to the Government of India, or to such Local Government, as the case may be, or by such other Officers

as shall be specially authorized to grant licenses by the Governor General of India in Council, or by any of the Local Governments.

What to be stated in license.

XII. Every such license shall state the name of the person to whom the license is granted, the Nation to which he belongs, the District or Districts through which he is authorized to pass or the limits within which he is authorized to travel, and the period (if any) during which the license is intended to have effect.

License may be granted subject to conditions, and may be revoked.

XIII. The license may be granted subject to such conditions as the Governor General of India in Council or the Local Government may direct, or as the Officer granting the license may deem necessary. Any license may be revoked at any time by the Governor General of India in Council, or by the Local Government of any part of British India in which all the provisions of this Act are for the time being in force and in which the Foreigner holding the same may be, or by the Officer who granted the license.

Foreigner travelling without or contrary to the conditions of license, may be apprehended.

XIV. If any Foreigner travel in or attempt to pass through any part of British India without such license as aforesaid or beyond the Districts or limits mentioned therein, or after such license shall have been revoked, or shall violate any of the conditions therein specified, he may be apprehended without warrant by any Officer exercising any of the powers of a Magistrate, or by any European Commissioned Officer in the service of Her Majesty, or by any member of a Volunteer Corps enrolled by authority of Government whilst on duty, or by any Police Officer.

Procedure upon apprehension.

XV. If any person be apprehended by a person not exercising any of the powers of a Magistrate and not being a Police Officer, he shall be delivered over as soon as possible to a Police Officer, and forthwith carried before the Magistrate of the District.

Magistrate to report to Government.

Whenever any person shall be apprehended by or taken before the Magistrate of the District, such Magistrate shall immediately report the case to the Local Government to which he is subordinate, and shall cause the person brought

before him to be discharged, or to be conveyed to one of the Presidency Towns, or pending the orders of such Government to be detained.

Persons apprehended may be admitted to bail.

XVI. Any person apprehended or detained under the provisions of this Act, may be admitted to bail by the Magistrate of the District, or by any Officer authorized to grant licenses, and shall be put to as little inconvenience as possible during his detention in custody.

Removal of persons apprehended.

XVII. The Local Government of any part of British India in which all the provisions of this Act are for the time being in force may order any person apprehended or detained under the provisions of this Act to remove himself from any such part of British India by sea or by such other route as the said Local Government may direct; or the said Local Government may cause him to be removed from such part of British India by such route and in such manner as to such Local Government shall seem fit. The Governor General of India in Council may exercise all the powers given by this Section to any Local Government.

Governor General may prohibit persons not being natural-born subjects from travelling or passing through any part of India without a license.

XVIII. The Governor General of India in Council may by order prohibit any person or any class of persons not being natural-born subjects of Her Majesty within the meaning of the Statute 3 and 4 William IV., chap. LXXXV., Section 81, from travelling in or passing through any part of British India in which all the provisions of this Act may for the time being be in force, and from passing from any part thereof to another without a license to be granted by such Officer or Officers as shall be specified in the order: and if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the Officers specified in Section XIV. of this Act, and carried before the Magistrate of the District, and dealt with under the provisions of Section XVII., in the same manner as if he were a Foreigner; and the Governor General of India in Council, may order such person to be detained in safe custody and under the surveillance of the Police so long as it may be deemed necessary for the peace and security of British India or any part thereof.

XIX. The Local Government of any Presidency or place in which all the provisions of this Act may for the time being be in force, may by order prohibit any person or any class of persons not being natural-born subjects of Her Majesty within the meaning of the Statute 3 and 4 William IV., chap. LXXXV. Section 81, from travelling in or passing through such Presidency or place or any part thereof, and from passing from any part thereof to another, without a license to be granted by such Officer or Officers as shall be specified in the order; and if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the Officers specified in Section XIV. of this Act, and carried before the Magistrate of the District, and dealt with under the provisions of Section XVII. in the same manner as if he were a Foreigner; and the Local Government may order such person to be detained in safe custody or under the surveillance of the Police so long as it may be deemed necessary for the peace and security of British India or any part thereof.

Also the Local Governments within their respective jurisdictions.

XX. It shall be lawful for the Commissioner of Police, or for the Magistrate of the District, or for any Officer appointed to receive reports as mentioned in the sixth Section of this Act, or for any Police Officer under the authority of such Commissioner or Magistrate, to enter any vessel in any port or place within British India in which all the provisions of this Act may for the time being be in force, in order to ascertain whether any Foreigner bound to report his arrival under the said Section VI. of this Act is on board of such vessel; and it shall be lawful for such Commissioner of Police, Magistrate, or other Officer as aforesaid, to adopt such means as may be reasonably necessary for that purpose; and the Master or Commander of such vessel shall also, before any of the passengers are allowed to disembark, if he shall be required so to do by such Commissioner of Police, Magistrate, or other Officer as aforesaid, deliver to him a list in writing of the passengers on board, specifying the ports or places at which they embarked, and the ports or places of their disembarkation or intended disembarkation, and answer to the best of his knowledge

Certain Officers may board vessels to ascertain whether Foreigners are on board.

Master of vessel to furnish list of passengers, and to give information respecting them.

all such questions touching the passengers on board the said vessel, or touching those who may have disembarked in any part of British India, as shall be put to him by the Commissioner of Police, Magistrate, or other Officer as aforesaid. If any Foreigner on board such vessel in any part of British India shall refuse to give an account of his objects of pursuit in India, or if his account thereof shall not be satisfactory, the Officer may refuse to allow him to disembark, or he may be dealt with in the same manner as a Foreigner travelling in British India without a license.

Foreigner refusing to give account of himself, not to be allowed to disembark.

XXI. If the Master or Commander of a vessel shall wilfully give a false answer to any question which by Section XX. of this Act he is bound to answer, or shall make any false report, he shall be held to have committed the offence specified in Section CLXXVII. of the Indian Penal Code.

Penalty for false answer or report.

XXII. If the Master or Commander of any vessel shall wilfully neglect or refuse to comply with the requisitions of this Act, he shall, on conviction before the Magistrate of the District or a Justice of the Peace, be liable to a fine not exceeding two thousand Rupees.

Penalty for neglect by Master of vessel to comply with requisitions of Act.

XXIII. Whoever intentionally obstructs any Officer in the exercise of any of the powers vested in him by this Act, shall be held to have committed the offence specified in Section CLXXXVI. of the Indian Penal Code.

Penalty for obstructing Officers.

XXIV. All fines imposed under this Act may, according as they shall have been imposed for offences committed within or for offences committed beyond the limits of the Towns of Calcutta, Madras and Bombay, be recovered by a Magistrate of Police or by the Magistrate of the District in the manner prescribed in Section XXVI. of Act XLVIII. of 1860 (*to amend Act XIII. of* 1856 *for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*).

Fines imposed under this Act how to be recovered.

XXV. The Governor General of India in Council, or the Local Government of any part of British India in which this Act may for the time

Persons may be exempted from provisions of this Act.

being be in force, may exempt any person, or any class of persons, either wholly or partially or temporarily or otherwise, from all or any of the provisions of this Act contained in any of the Sections subsequent to Section V. and may at any time revoke any such exemption.

KURRACHEE.—SMALL CAUSE COURT.

Act No. IV. of 1864.

[*Received the assent of the G. G. on the* 18*th Feb.*, 1864.

Recites that Small Cause Court was established without the previous sanction of the Government of India, and doubts as to the validity of its proceedings before 28th November, 1863.

1. Establishes its competency as a Court, from the 28th November, 1863.

Obsolete.

SCINDE.—CODE OF CIVIL PROCEDURE.

Act No. V. of 1864.

[*Received the assent of the G. G. on the* 18*th Feb.*, 1864.

Recites that the Code of Civil Procedure was extended to Scinde from 1st January, 1862, without the previous sanction of the Government of India and doubts as to the validity of proceedings under the Code for the want of that sanction.

1. Retrospectively gives validity to proceedings according to the Code, from 1st January, 1862.

Obsolete.

WHIPPING ACT.

Act No. VI. of 1864.

[*Received the assent of the G. G. on the* 18*th Feb.*, 1864.

Recites the expediency of introducing the punishment of whipping.

1. Adds the punishment of whipping to the punishments described in Section 53 of the Indian Penal Code.

2. Whipping may be ordered in lieu of any other punishment, under the Indian Penal Code, for specified offenc *viz.*, Theft, under Sections 378, 380, 381, 382; Extortion, under Section 389; Dishonestly receiving stolen

property, under Sections 411, 412; Lurking House-trespass, or House-breaking, under Sections 443, 445; Lurking House-trespass by Night, and Housebreaking by night, under Section 444, 446.

3. And on second conviction of these offences, whipping may be ordered either in lieu of, or in addition, to other punishment.

4. Whipping may be ordered on second conviction, in addition to any other punishment under the Code for the following offences, *viz.*, giving or fabricating false evidence, under sections 193, 194, 195. Falsely charging any person with an unnatural offence, under Sections 211, 377; assaulting or using criminal force to a woman, under Section 354; Rape, under Section 375; Unnatural offence, under Section 377; Robbery or Dacoity, under Sections 390, 391; Attempt to commit Robbery, under Section 393; Voluntarily causing hurt in committing robbery, under Section 394; Habitually receiving, &c., stolen property, under Section 413; Forgery, under Sections 463, 466, 467, 468, 469; Lurking House-trespass, or House-breaking, under Sections 443, 444, 445, 446.

5. Makes Juvenile offenders liable to whipping in lieu of any other punishment, for any offence under the Code not punishable with death.

6. In frontier districts and wild tracts, whipping may be given in lieu of any other punishment, for offences named in Section 4, after notification in Gazette.

7. The following classes not to be liable to whipping, *viz.*, Women, persons sentenced to death, transportation, penal servitude, or to more than five years' imprisonment.

8. Officers inferior to first class subordinate Magistrate not to sentence to whipping unless expressly empowered by Government.

9. Whipping not to be inflicted till fifteen days after sentence, or confirmation of an appeal.

10, 11. Whipping to be inflicted with instrument and in mode and on part directed by Government; and on juvenile offender by a light rattan; and not to exceed 150 lashes if by cat of nine tails, or 30 stripes if by rattan; and to be inflicted in presence of Magistrate, &c.; and (11) not to be inflicted if the offender is not in a fit state of health, nor by instalments.

12. Provides for revision of sentence, &c., for case in which sentence of whipping cannot be carried out.

Preamble.

Whereas it is expedient that in certain cases offenders should be liable under the provisions of the Indian Penal Code, to the punishment of whipping, it is enacted as follows:

Whipping added to the punishments described in Section 53 of the Penal Code.

I. In addition to the punishments described in Section 53 of the Indian Penal Code, offenders are also liable to whipping under the provisions of the said Code.

Offences punishable with whipping in lieu of other punishment prescribed by Penal Code.

II. Whoever commits any of the following offences may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the Indian Penal Code, that is to say:—

1. Theft, as defined in Section 378 of the said Code.

2. Theft in a building, tent, or vessel, as defined in Section 380 of the said Code.

3. Theft by a clerk or servant, as defined in Section 381 of the said Code.

4. Theft after preparation for causing death or hurt, as defined in Section 382 of the said Code.

5. Extortion by threat, as defined in Section 388 of the said Code.

6. Putting a person in fear of accusation in order to commit extortion, as defined in Section 389 of the said Code.

7. Dishonestly receiving stolen property, as defined in Section 411 of the said Code.

8. Dishonestly receiving property stolen in the commission of a Dacoity, as defined in Section 412 of the said Code.

9. Lurking house trespass, or house-breaking, as defined in Sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

10. Lurking house-trespass by night or house-breaking by night, as defined in Sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

On second conviction of any offence mentioned in last Section, whipping may be added to other punishment.

III. Whoever, having been previously convicted of any one of the offences specified in the last preceding Section, shall again be convicted of the same offence, may be punished with whipping in lieu of or in addition to any other punishment to which he may for such offence be liable under the Indian Penal Code.

Offences punishable, in case of second conviction, with whipping in addition to other punishment.

IV. Whoever, having been previously convicted of any one of the following offences, shall be again convicted of the same offence, may be punished with whipping in addition to any other punishment to which he may be liable under the Indian Penal Code, that is to say:—

1. Giving or fabricating false evidence in such manner as to be punishable under Section 193 of the Indian Penal Code.

2. Giving or fabricating false evidence with intent to procure conviction of a capital offence, as defined in Section 194 of the said Code.

3. Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment, as defined in Section 195 of the said Code.

4. Falsely charging any person with having committed an unnatural offence, as defined in Sections 211 and 377 of the said Code.

5. Assaulting or using criminal force to any woman with intent to outrage her modesty, as defined in Section 354 of the said Code.

6. Rape, as defined in Section 375 of the said Code.

7. Unnatural offences, as defined in Section 377 of the said Code.

8. Robbery or Dacoity, as defined in Sections 390 and 391 of the said Code.

9. Attempting to commit Robbery, as defined in Section 393 of the said Code.

10. Voluntarily causing hurt in committing robbery, as defined in Section 394 of the said Code.

11. Habitually receiving or dealing in stolen property, as defined in Section 413 of the said Code.

12. Forgery, as defined in Section 463 of the said Code.

13. Forgery of a document, as defined in Section 466 of the said Code.

14. Forgery of a document, as defined in Section 467 of the said Code.

15. Forgery for the purpose of cheating, as defined in Section 468 of the said Code.

16. Forgery for the purpose of harming the reputation of any person, as defined in Section 469 of the said Code.

17. Lurking house-trespass or house-breaking, as defined in Sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

18. Lurking house-trespass by night or house-breaking by night, as defined in Sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

Juvenile offenders punishable with whipping for offences not punishable with death.

V. Any juvenile offender who commits any offence which is not by the Indian Penal Code punishable with death, may, whether for a first or any other offence, be punished with whipping in lieu of any other punishment to which he may for such offence be liable under the said Code.

When offences specified in Section IV. may be punished with whipping in Frontier Districts and wild tracts.

VI. Whenever any Local Government shall by Notification in the Official Gazette have declared the provisions of this Section to be in force in any Frontier District or any wild tract of country within the jurisdiction of such Local Government, any person who shall in such district or tract of country after such Notification as aforesaid commit any of the offences specified in Section IV. of this Act, may be punished with whipping in lieu of any other punishment to which he may be liable under the Indian Penal Code.

Exemption of Females.

VII. No female shall be punished with whipping, nor shall any person who may be sentenced to death, or to transportation, or to penal servitude, or to imprisonment for more than five years, be punished with whipping.

Officers inferior to Subordinate Magistrate of the 1st class not to pass sentence of whipping unless expressly empowered by Government.

VIII. No sentence of whipping shall be passed by any Officer inferior to a Subordinate Magistrate of the first class, unless he shall have been expressly empowered by the Local Government to pass sentences of whipping.

Whipping if awarded in addition to imprisonment, when to be inflicted.

IX. When the punishment of whipping is awarded in addition to imprisonment, by a Court whose sentence is open to revision by a superior Court, the whipping shall not be inflicted until fifteen days from the date of such sentence, or if an appeal be made within that time, until the sentence is confirmed by the superior Court: but the whipping shall [illegible] inflicted immediately on the

expiry of the fifteen days, or in case of an appeal immediately on the receipt of the order of the Court confirming the sentence if such order shall not be received within the fifteen days.

Mode of inflicting the punishment.

X. In the case of an adult, the punishment of whipping shall be inflicted with such instrument in such mode and on such part of the person as the Local Government shall direct, and in the case of a juvenile offender, it shall be inflicted in the way of school discipline with a light rattan. In no case, if the cat of nine tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or if the rattan be employed shall the punishment exceed thirty stripes. The punishment shall be inflicted in the presence of a Justice of the Peace, or of an Officer authorized to exercise any of the powers of a Magistrate, and also, unless the Court which passed the sentence shall otherwise order, in the presence of a Medical Officer.

Punishment not to be inflicted if offender not in fit state of health.

Nor by instalments.

XI. No sentence of whipping shall be carried into execution unless a Medical Officer, if present certifies, or unless it appears to the Justice of the Peace or other Officer present, that the offender is in a fit state to undergo the punishment; and if during the execution of a sentence of whipping a Medical Officer certifies, or it appears to the Officer present, that the offender is not in a fit state of health to undergo the remainder of the punishment, execution shall be stayed. No sentence of whipping shall be executed by instalments.

Procedure if punishment cannot be inflicted under the last Section.

XII. In any case in which, under the last preceding Section of this Act, no part of a sentence of whipping is carried into execution, the offender shall be kept in custody till the Court which passed the sentence can revise it, and the said Court may, at its discretion, either order the discharge of the offender, or sentence him in lieu of whipping to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence; provided that the whole period of imprisonment shall not exceed that to which the offender is liable under the provisions of the Indian Penal Code, or that which the said Court is competent to award.

CENTRAL PROVINCES.—SALT CUSTOMS DUTIES.

ACT No. VII. OF 1864.

[*Received the assent of the G. G. on the 25th Feb.*, 1864.

Recites expediency of levying duty on Salt in the Central Provinces, and to extend certain specified Acts.

1. Repeals so much of Act XIV., 1843, Section 14, as declares that the Act is not to apply to the Saugor and Nerbudda Territories.

2. Empowers the Governor General in Council to order levy of Customs duty, not exceeding 3 Rupees per maund, on Salt imported into the Territories administered by the Chief Commissioner of the Central Provinces.

3. Extends to those Provinces specified parts of Acts XIV., 1863, Sections 3 to 13, both inclusive; and Act XXXVI., 1855, Sections 1 to 3 and 5 to 9, both inclusive; and Act XIX., 1862, Section 2.

4. Indemnifies Collectors of Customs, &c., for Acts done before this Act passed, which would have been legal if it had passed.

Preamble.

Whereas it is expedient to provide for the levy of a Customs duty upon Salt in the Territories administered by the Chief Commissioner of the Central Provinces, and to extend to the said Territories certain provisions of Act XIV. of 1843 (*for regulating the levy of Customs duties and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal*), and of Act XXXVI. of 1855 *to empower Officers of Customs and land revenue to search houses and other enclosed places for contraband Salt in the North-Western Provinces*), and of Act XIX. of 1862 (*to extend to the Province of Oude certain provisions of Acts XIV. of* 1843 *and XXXVI. of* 1855, *relating to the manufacture of contraband Salt, and to amend the last named Act*), it is enacted as follows:

Section XIV. of Act XIV. of 1843 partially repealed.

I. So much of Section XIV. of Act XIV. of 1843 as declares that nothing in the said Act contained shall apply or be deemed to apply to the Saugor and Nerbudda Territories, is hereby repealed.

Customs duty on Salt imported into the Central Provinces.

II. It shall be lawful for the Governor General in Council to order the levy of a Customs duty not exceeding three Rupees per maund on Salt imported into the Territories administered by the Chief Commissioner of the Central Provinces.

III. So much of Sections III., IV., V., VI., VII., VIII., IX., X., XI., XII. and XIII. of Act XIV. of 1843 as relates to the manufacture and importation of alimentary Salt, and to the prevention and punishment of the illicit manufacture and importation of such Salt, and Sections I., II., III., V., VI., VII., VIII. and IX. of Act XXXVI. of 1855, and Section II. of Act XIX. of 1862, are hereby extended to the Territories administered by the Chief Commissioner of the Central Provinces.

Certain provisions of Act XIV. of 1843, of Act XXXVI. of 1855, and of Act XIX. of 1862, extended to the Central Provinces.

IV. Every Collector of Customs and other Officer in the Territories administered by the Chief Commissioner of the Central Provinces, however such Officer is designated, is hereby indemnified for any thing done before the passing of this Act, which might lawfully have been done if this Act had been in force, and no action or other proceeding shall be maintained against any such Collector or other Officer in respect of any thing so done.

Indemnity to Collectors of Customs and others.

COMPTOIR D'ESCOMPTE OF PARIS.

ACT No. VIII. OF 1864.

[*Received the assent of the G. G. on the 2nd March*, 1864.

Recites the establishment of this Bank, for a term of thirty years, with limited liability, and with agencies conducted in the same manner as the Bank itself. Recites also a Convention between the Queen and the Emperor for the mutual grant to all Companies of the power to carry on their business, &c., and the expediency of giving effect to the Conveption so far as the Comptoir D'Escompte and its agencies are concerned.

1. Interprets the word "British India" and "Person," and lays down rule of construction for words of Number and Gender.

2. Suits to be brought by and against the Chief Manager for the time being of the agencies in India, and suits not to abate on his death or removal.

3. In Criminal proceedings, property of the Comptoir may be described as property of the Comptoir, or of the Chief Manager.

4, 5. Suits by or against the Comptoir on contract not to be defeated by the plaintiff or defendant being a partner.

6—8. 10, 11. Memorial in Form in Schedule A to be enrolled among the Records of the High Court; (7) authenticated by the French Financial Minister and H. M.'s Consul General in Paris; and (8) on change of

Chief Manager, new memorial thereof to be enrolled; but (10) registered Manager to remain liable, till new one registered; and (11) examined copy of memorial signed by Registrar to be evidence.

9. Section 199 of L. P. C. to apply to false verification of memorial.

10, 11. *Supra.*

12. Extends provisions of Civil Code of Procedure as to executions and attachments against property of Comptoir to judgments against the Comptoir.

13. Prohibits multiplicity of suits for same demand.

Schedule A. The memorial. B. Memorial of change of Chief Manager.

Preamble.

Whereas certain persons have formed themselves into a Company at Paris for the transaction of Banking business under the name of the "Comptoir D'Escompte of Paris:" and whereas the said Company is constituted and established under and by virtue of various Imperial decrees of the French Government, Notarial Acts, and Articles of Agreement, whereby it is provided (amongst other things) that the said Company may continue to exist and carry on business for a term of thirty years from the Eighteenth day of March, 1857, that the shareholders of the Company shall be responsible only to the amount of their shares respectively, that the rights and liabilities attached to each share shall follow its transmission into whatever hands it may pass, and that the Company may establish on its own responsibility, and with the authority of the Minister of Finance, Agencies in France and in French or Foreign Colonies, such Agencies to be organized and conducted in the same manner as the Comptoir D'Escompte itself: and whereas Agencies of the said Company have been recently established in Calcutta and in Bombay: and whereas on the Thirtieth day of April, 1862, a Convention was concluded and signed at Paris between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French, comprising the following Articles, that is to say, "First—The High contracting parties declare that they mutually grant to all Companies and other Associations, commercial, industrial, or financial, constituted and authorized in conformity with the laws in force in either of the two countries, the power of exercising all their rights, and of appearing before the Tribunals, whether for the purpose of bringing an action or for defending the same, throughout the dominions and possessions of the other Power, subject to the sole condition of conforming to the laws of such

dominions and possessions. Second—It is agreed that the stipulations of the preceding Articles shall apply as well to Companies and Associations constituted and authorized previously to the signature of the present Convention as to those which may subsequently be so constituted and authorized. Third—The present Convention is concluded without limit as to duration. Either of the High Powers shall however be at liberty to terminate it by giving to the others a year's previous notice. The two High Powers moreover reserve to themselves the power to introduce into the Convention, by common consent, any modifications which experience may show to be desirable: " and whereas it is desirable that effect should be given to the said Convention so far as the Comptoir D'Escompte and its Agencies now or hereafter established are concerned, it is enacted as follows:

I. Unless the contrary appears from the context, in construing this Act, the words "British India" denote the Territories which are or may become vested in Her Majesty the Queen by the Statute 21 and 22 Vic., Ch. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"British India."

Words importing the singular number include the plural number, and words importing the plural number include the singular number.

Number.

Words importing the masculine gender include females.

Gender.

The word "person" includes any Company or Association or body of persons, whether incorporated or not.

"Person."

II. From and after the passing of this Act, all suits and other proceedings whatsoever, for any injury or wrong done to any real or personal property of the said Comptoir D'Escompte, in whomsoever the same may for the time being be vested, whether in the said Company, or in some person or persons in trust for the said Company, or upon or in respect of any present liability to the said Comptoir D'Escompte, or upon any Bonds, Covenants, Contracts or

All suits and proceedings by, or on behalf of, or against, the Comptoir D'Escompte shall be instituted in the name of, or against, the Chief Manager for the time being of the Agencies in British India, as the nominal plaintiff or defendant, and shall not abate, on death or removal of such Manager.

Agreements, which already have been or hereafter shall be given to or entered into with the said Company, or to or with any person whomsoever in trust for the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested, and also all instruments and petitions to found any adjudication of Insolvency in any Court against any person indebted to the said Comptoir D'Escompte, and liable to have been made Insolvent by the laws now, or at any time hereafter, in force relating to Insolvents in British India, and generally all other proceedings whatsoever to be commenced or carried on, by or on behalf of the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested against any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall and lawfully may be commenced and prosecuted in the name of the person who shall be the Chief Manager of the Agencies in British India of the said Comptoir D'Escompte at the time such suit or proceeding shall be commenced, as the nominal plaintiff or petitioner for or on behalf of the said Comptoir D'Escompte, and all suits and proceedings, as well for subsisting as future accruing claims, debts, or demands, to be commenced against the said Comptoir D'Escompte by any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall be commenced and prosecuted against the said Chief Manager for the time being, as the nominal defendant or respondent for and on behalf of the said Comptoir D'Escompte, and the death, removal, resignation, or any other act of such Chief Manager, or his bankruptcy, or insolvency, shall not abate or prejudice any suit or other proceeding commenced under this Act, but the same may be continued, prosecuted, and carried on, or defended, in the name of any other the Chief Manager for the time being of the said Agencies.

In criminal proceedings, property whether vested in Comptoir D'Escompte or Trustees, may be described as property of Comptoir or of Chief Manager.

III. From and after the passing of this Act, in all criminal proceedings instituted or carried on by or on behalf of the said Comptoir D'Escompte, for fraud or injury upon or against the said Comptoir D'Escompte, or for any offence whatever relating to any money, notes, bills, effects, securities, or any real or personal property of the said

Comptoir D'Escompte, or for any other offence against the said Comptoir D'Escompte, it shall be lawful to state such money, notes, bills, effects and securities, and other real and personal property, in whomsoever the same may be vested, whether in the said Comptoir D'Escompte, or in some person or persons in trust for the said Comptoir D'Escompte, to be the money, notes, bills, effects and securities, or property of the said Comptoir D'Escompte, or of the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte; and any offence committed with intent to injure or defraud the said Comptoir D'Escompte, shall, and lawfully may, in such proceedings, be said to have been committed with intent to injure or defraud the said Comptoir D'Escompte, or such Chief Manager for the time being as aforesaid, and any offender may thereupon be lawfully convicted of any such offence, and in all other proceedings in which, before the passing of this Act, it would have been necessary to state the names of the persons composing the said Comptoir D'Escompte, it shall be lawful and sufficient to state the name of such Chief Manager; and the death, resignation, or removal of such Chief Manager shall not abate or render defective, or in any wise affect or prejudice such criminal proceedings.

Actions against the Comptoir on contracts with it not to be defeated because plaintiff is a partner.

IV. No suit which may be commenced in any Court in British India against the said Comptoir D'Escompte, or the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte, upon or arising out of any contract entered into by or on behalf of the said Comptoir D'Escompte, shall be in any wise affected or defeated by reason of the plaintiff therein, or of any other person who may be in any wise interested in such action, being a shareholder or partner of or in the said Comptoir D'Escompte; but any shareholder or partner of or in the said Comptoir D'Escompte, shall have the same right of action and remedy to be proceeded in and enforced in the same manner against the said Comptoir D'Escompte, or such Chief Manager for the time being as aforesaid, upon any contract, and for any debt, damage, or demand whatsoever, which he might have had if he had been a stranger, and not a shareholder or partner of or in the said Comptoir D'Escompte.

V. No suit commenced by or on behalf of the said Comptoir D'Escompte in the name of the Chief Manager for the time being as aforesaid by virtue of this Act, upon or arising out of any contract whatsoever, entered into by or on behalf of the said Comptoir D'Escompte, or for the recovery of any debt, damage, or demand whatsoever due or owing to the said Comptoir D'Escompte, or for any other cause or any other account, shall be in any wise affected or defeated by or by reason of the defendant therein, or any person or persons who may be in any wise interested in such suit, being a shareholder or partner of or in the said Comptoir D'Escompte, but the said Comptoir D'Escompte shall and may have the same right of suit and remedy to be proceeded in and enforced in the same manner against any shareholder or partner of or in the said Comptoir D'Escompte either alone or jointly with any other person, upon any contract, and upon and for any debt, damage, or demand whatsoever, which the said Comptoir D'Escompte might have had if such cause of action had arisen with a stranger, and not with a shareholder or partner of or in the said Comptoir D'Escompte.

Suit by Comptoir on contract not to be defeated because defendant is a partner.

VI. The Chief Manager of the Agencies in British India of the said Comptoir D'Escompte shall have an Office for the transaction of the business of the Comptoir D'Escompte. He shall cause a memorial, in the form and to the effect set forth in the Schedule A to this Act annexed, or as near thereto as the circumstances of the case will admit of, verified by a declaration in writing made by him before a Judge of the High Court of Judicature within the jurisdiction of which his Office is situated, to be enrolled amongst the records of the said High Court, such memorial shall, prior to being enrolled, be signed by the said Chief Manager, and shall be accompanied by or have annexed thereto, or endorsed thereon, copies of the decrees, notarial acts, articles and other instruments under which the Company is established, and copies of the various rules under which the business of the Company is conducted. The memorial shall set forth the situation of the Office of the Chief Manager and of every other Office and place in British India in or at which the business of the Comptoir D'Escompte is carried on: and it

Chief Manager to cause a memorial to be enrolled containing certain particulars.

shall contain a statement of the amount both of the nominal and of the paid-up capital, the number of shares into which the capital is divided, the amount of each share, and the amount of capital (if any) which the Comptoir D'Escompte shall have set aside for their working capital in British India, and if the last mentioned capital be other than money, then a statement of how it stands invested, and in whose name.

Authority of Chief Manager to be authenticated.

VII. No memorial shall be enrolled unless the authority of the Chief Manager by whom it is signed, and the copies of the decrees, acts, deeds, and other documents, accompanying the memorial shall be authenticated by the signature and seal of the French Financial Minister, and countersigned by Her Britannic Majesty's Consul General in Paris for the time being.

Memorial of change in Chief Manager or in facts set forth in former memorial to be enrolled.

VIII. Whenever any new Chief Manager of the Agencies in British India of the said Company shall be appointed, or any change in or addition to any of the facts stated in any memorial which may have been enrolled shall take place, a like memorial in the form and to the effect set forth in the Schedule B to this Act annexed, verified as aforesaid shall, within twelve calendar months after such appointment, change, or addition shall have been made, be enrolled as aforesaid, specifying the name and description of such new Chief Manager, and containing a statement of the change or addition which may have taken place in the facts aforesaid.

False declaration an offence under the Penal Code.

IX. If any declaration made for the purpose of verifying a memorial under this Act shall be false or untrue in any material particular, the person wilfully making such declaration shall be guilty of an offence within the meaning of Section 199 of the Indian Penal Code.

Comptoir not to sue under this Act till after enrollment of memorial, and person named in last memorial to remain liable till fresh memorial is enrolled.

X. Until such memorial as first hereinbefore mentioned shall have been duly verified and enrolled, no action or suit shall be brought by the said Comptoir D'Escompte under the authority of this Act: and until the memorial by this Act required to be verified and enrolled in the event of the appointment of a new Chief Manager of the Agencies in British

India of the said Comptoir D'Escompte, shall have been duly verified and enrolled, the person whose name shall appear in the last memorial which shall have been duly verified and enrolled, shall be liable to all such suits and executions upon judgment or decree and other proceedings under this Act, and in the same manner, as if he had not ceased to be such Chief Manager, and as if no new Chief Manager had been appointed.

Examined copy to be a proof of contents of memorial.

XI. An examined copy of every memorial enrolled pursuant to this Act, certified to be a true copy by and under the hand and signature of a Registrar for the time being of the High Court of Judicature in which the same shall have been enrolled, shall be received in evidence as proof of the contents of such memorial, and proof shall not be required that the person by whom the memorial purports to be verified was, at the time of such verification, Chief Manager as aforesaid of the said Agencies.

Judgment or order against Chief Manager how to be executed.

XII. Execution on every judgment, decree, and order made or pronounced in any suit or proceeding in any Court in British India against the Chief Manager for the time being as aforesaid, shall and may be issued and enforced against any property in British India belonging to the Comptoir D'Escompte. All the provisions of the Code of Civil Procedure as to the attachment of property before judgment and after judgment, shall in all suits against the Chief Manager have full force and effect as regards property in British India belonging to the Comptoir D'Escompte. So long as the full amount recoverable by any person under any judgment, decree, or order shall not have been recovered, no execution issued from any Court in British India, nor any thing in this Act, shall in any way prejudice or injure the right of such person to proceed in France, under the privileges and powers reserved to British subjects by and under the said Convention of the Thirtieth of April, 1862, for the recovery of the amount unrecovered.

No person to bring more than one suit for the same demand against any Chief Manager, nor the Comptoir against any other person.

XIII. No person having or claiming to have any demand upon or against the said Comptoir D'Escompte shall, when the same has been so determined as to have been pleadable in bar against such person bring more than one suit in respect

of such demand; and the proceedings in any suit which may have been brought against the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte under the authority of this Act, if so determined, may be pleaded in bar of any suit in any Court in British India, for the same cause against any other such Chief Manager; and in case of any demand which the said Comptoir D'Escompte now has or hereafter may have upon or against any person, whether a shareholder of the said Comptoir D'Escompte or not, and which shall have been determined in any action or suit commenced or prosecuted by the Chief Manager for the time being, the proceedings in such suit may be pleaded in bar of any other suit, in any such Court as aforesaid, for the same demand, which may be commenced or prosecuted by the same or any other such Chief Manager as aforesaid.

SCHEDULE A.

Referred to in Section VI. of this Act.

Memorial made the day of by the Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, pursuant to Act VIII. of 1864 of the Governor General of India in Council, intituled "An Act to enable the Comptoir D'Escompte of Paris to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company," setting forth the particulars prescribed by Section VI. of the said Act:

Situation of Office of Chief Manager ... ...
Situation of other Offices and places in British India ...
Entire Nominal Capital of the Company ... ...
Paid-up Capital ... ...
Number of Shares ... ...
Amount of each Share ... ...
Amount of Capital set aside for operations in British India.
Mode in which the same is invested ... ...
Name in which the same is invested .. ..

I, *A. B.*, Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, do solemnly and sincerely

declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Signed) A. B.

Declared, &c., before me, a Judge of the High Court of Judicature at

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SCHEDULE B.

Referred to in Section VIII. of this Act.

Memorial made the day of by the Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, pursuant to Act VIII. of 1864, of the Governor General of India in Council, intituled "An Act to enable the Comptoir D'Escompte, &c." (*as in foregoing*), setting forth particulars of change or changes as prescribed by Section VIII. of the said Act.

Name and description of new Chief Manager ... ...

or

New situation of Office of Chief Manager ... ...

or

Other change ... ...

I, *C. D.*, Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, do solemnly and sincerely declare to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Signed) C. D.

Declared before me, &c., &c. (*as before*).

The expression "Chief Manager" in this Act construed by Act IX., 1867.

AMHERST.—PORT DUES.

ACT NO. IX. OF 1864.

[*Received the assent of the G. G. on the 9th March*, 1864.

1, 2. Repeals Act VIII., 1861; (2) from the 1st May, 1864.

Whereas it is expedient that Act VIII. of 1861 (*for the levy of Port-dues in the Port of Amherst*) be repealed, it is enacted as follows:

Preamble.

Act VIII. of 1861 repealed.

I. Act VIII. of 1861 is hereby repealed.

Date on which Act comes into operation.

II. This Act shall come into operation on the First day of May, 1864.

BENGAL.—ABKAREE REVENUE.

ACT NO. X. OF 1864.

[*Received the assent of the G. G. on the 9th March*, 1864.

Recites the expediency of extending Act XXI., 1856, to any province or place under the immediate administration of the Governor General of India in Council.

1, 2. Empowers the Governor General in Council so to extend the Act by order in the Gazette of India; and (2) declares the Act to be in force whenever so extended.

Preamble.

Whereas it is expedient to give the Governor General of India in Council power to extend the provisions of Act XXI. of 1856 (*to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal*) to any of the Provinces under the immediate administration of the Governor General of India in Council in which the said Act is not now in force, it is enacted as follows:

Governor General of India in Council may extend Act XXI. of 1856, to certain Non-Regulation Provinces.

I. It shall be lawful for the Governor General of India in Council, by order published in the Gazette of India, to extend the provisions of the said Act XXI. of 1856, to any province or place under the immediate administration of the Governor General of India in Council.

Governor General in Council to declare the authorities by whom Act XXI. of 1856, is to be administered.

II. Whenever the Governor General of India in Council shall extend the said Act XXI. of 1856 to any province or place under the powers hereinbefore in that behalf contained, the Governor General in Council shall by notification in the Gazette of India declare the authorities by whom the said Act XXI. of 1856, shall be administered in such province or place.

HINDOO AND MAHOMEDAN LAW OFFICERS AND CAZEE.

Act No. XI. of 1864.

[*Received the assent of the G. G. on the 18th March*, 1864.

Recites that it is unnecessary to continue the Hindoo and Mahomedan Law Officers, and that it is inexpedient that the appointment of Cazee-ool-Cozaat or Cazee should be made by Government.

1. Repeals the following Regulations and Acts:—Bengal Regs. 4, 1793, Section 15 partially; 12, 1793; 38, 1793; 8, 1795, Section 3 partially; 11, 1795; 49, 1795; 2, 1796, Section 4; 3 1803, Section 16, Clause 1 partially; 9, 1803; 46, 1803; 10, 1806, Section 10 partially; 8, 1809, Sections 3, 4; 18, 1817, Sections 1, 2, 4, 6 partially; 11, 1826, Sections 1, 2, 3, 4; 3, 1827, Sections 1, 2, 3, 4, partially; 3, 1829, Section 7. Madras Regs. 11, 1802; 3, 1808; 7, 1822, Section 3, Clause 2; 3, 1828. Bombay Regs. 2, 1827, Section 84, Clauses 2, 3, and Section 35; 26, 1827. Acts XXVII., 1836; VII., 1843, Section 51; V., 1845.

Preamble.

Whereas it is unnecessary to continue the offices of Hindoo and Mahomedan Law Officers, and is inexpedient that the appointment of Cazee-ool-Cozaat, or of City, Town or Pergunnah Cazees should be made by Government, it is enacted as follows:

Regulations and Acts repealed.

I. The Regulations and Acts and parts of Regulations and Acts set forth in the Schedule annexed to this Act are hereby repealed, except so far as they repeal any other Regulation or Act or part of any other Regulation or Act.

This Act not to affect the performance of ceremonies, &c., by Cazees.

II. Nothing contained in this Act shall be construed so as to prevent a Cazee-ool-Cozaat or other Cazee from performing, when required to do so, any duties or ceremonies prescribed by the Mahomedan Law.

SCHEDULE.

Regulations and Acts and parts of Regulations and Acts Repealed.

Number and date of Regulations	What Code.	Title.	Extent of Repeal.
Regulation IV., 1793 ...	Bengal Code	For receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs, and in the Cities of Patna, Dacca, and Moorshedabad	So much of Section XV. as declares that, in the respective cases mentioned in the said Section, the Mahomedan and Hindoo Law Officers of the Court are to attend to expound the law.
Regulation XII., 1793 ...	Bengal Code	For the appointment of the Hindoo and Mahomedan Law Officers of the Civil and Criminal Courts of Judicature	The whole.
Regulation XXXIX., 1793	Bengal Code	For the appointment of the Cazee-ool-Cozaat or Head Cazee of Bengal, Behar, and Orissa, and the Cazees stationed in the several districts, and prescribing their respective duties ...	The whole.

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
Regulation VIII., 1795..	Bengal Code	For extending to the Province of Benares, with alterations and modifications, Regulation IV., 1793, entitled "A Regulation for receiving, "trying, and deciding suits or complaints "declared cognizable in the Courts of De- "wanny Adawlut established in the several "Zillahs, and in the Cities of Patna, Dacca, "and Moorshedabad;" and for exempting the Rajah of Benares and the Baboos of his family, and certain Bankers, when defendants, from giving the security required from other defendants	So much of Section III. as declares that, in the respective cases mentioned in the said Section, the Mahomedan and Hindoo Law Officers of the Courts are to attend and expound the Law.
Regulation XI., 1795 ...	Bengal Code	For extending with modifications, to the Province of Benares, Regulation XII., 1793, entitled "a Regulation for the appointment of "the Hindoo and Mahomedan Law Officers "of the Civil and Criminal Courts of Judi- "cature," and for appointing a Pundit or Pundits to the Provincial Court of Circuit for the Division of Benares, to expound the Hindoo Law in certain cases cognizable by that Court	The whole.

Regulation XLIX., 1795	Bengal Code	For appointing the Head Cazee of the Provinces of Bengal, Behar, and Orissa, Head Cazee of the Province of Benares, and for extending to that Province the Rules contained in Regulation XXXIX., 1793, regarding the Cazees stationed in the Cities, Towns, and other places in the three first mentioned Provinces	The whole.
Regulation II., 1798 ...	Bengal Code	For authorising a Review of Causes decided by the Civil Courts in certain cases; and for explaining parts of Regulations IV., V., and VI., 1793	Section IV.
Regulation III., 1803 ...	Bengal Code	For receiving, trying and deciding suits or complaints, declared cognizable in the Courts of Adawlut established in the several Zillahs in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company	So much of Clause First, Section XVI., as declares that the Mahomedan and Hindoo Law Officers of the Courts shall attend to expound the law of their respective persuasions in cases in which recourse may be required to be had to it; and that the Judge of the Zillah Court may further refer cases for the

Number and Date of Regulation.	What Code.	Title.	Extent of Repeal.
			opinion of the Law Officers of the Superior Courts.
Regulation XI., 1803 ...	Bengal Code	For the appointment of the Hindoo and Mahomedan Law Officers of the Civil and Criminal Courts of Judicature, in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company	The whole.
Regulation XLVI., 1803	Bengal Code	For the appointment of the Cazee-ool-Cozaat, or Head Cazee of the Provinces of Bengal, Behar, Orissa, and Benares, to be the Head Cazee of the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company	The whole.
Regulation X., 1806 ...	Bengal Code	For extending to the Judicial Department such parts of Regulation VIII., 1806, as are applicable to charges or information against the European public officers employed in that Department, and for making further provision in such cases	So much of Section X. as relates to charges of corruption and extortion against the Hindoo and Mahomedan Law Officers.
Regulation VIII., 1809	Bengal Code	For modifying parts of the Rules in force respecting the appointment and removal of the Native Officers of Government in the Judicial, Revenue, and Commercial Departments...	Sections III. and IV.

Regulation XVIII., 1817	Bengal Code	To modify the Rules in force which prescribe an oath of office to be taken by certain Native Officers; and to explain and amend other provisions relative to the Native Ministerial Officers and Law Officers of the Civil and Criminal Courts	So much of Sections I., II., IV. and VI. as relates to Law Officers.
Regulation XI., 1826 ...	Bengal Code	For providing a succession of duly qualified Hindoo and Mahomedan Law Officers in the several Courts of Justice; and for enacting an additional Rule for the appointment of Vakeels in the Zillah and City Courts	Sections I., II., III. and IV.
Regulation III., 1827 ...	Bengal Code	For modifying and amending the Rules in force relative to the Law Officers and Ministerial Native Officers of the Courts of Judicature, who may be guilty of corruption or extortion.	So much of Sections I., II., III. and IV. as relates to Law Officers.
Regulation III., 1829 ...	Bengal Code	For abolishing certain official designations amongst the Judges of the Courts of Sudder Dewanny and Nizamut Adawlut, and of the Provincial Courts; for amending the Rules at present in force, which require the Judges of the Courts of Sudder Dewanny and Nizamut Adawlut, or other public Officers, to take the prescribed oaths of office before the Governor General in Council; for providing for the decision of Civil suits and appeals in the Provincial Courts, in certain cases; for amending Regulation VIII., 1825, and	Section VII.

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
		for discontinuing the offices of Hindoo and Mahomedan Law Officer in the Provincial Courts	
Regulation XL., 1802 ...	Madras Code	For the appointment of the Hindoo and Mahomedan Law Officers of the Civil and Criminal Courts of Judicature	The whole.
Regulation III., 1808 ...	Madras Code	For the appointment of the Cazee-ool Cozaat of the Provinces subject to the Presidency of Fort St. George	The whole.
Regulation VII., 1822 ...	Madras Code	For rescinding Regulation I. of 1809, and Regulation V. of 1811, and for declaring that the appointment and removal of the Native public servants of Government shall be regulated by such orders as the Governor in Council may from time to time see fit to issue	Section III., Clause 2.
Regulation III., 1828 ..	Madras Code	For improving the means of procuring for the Courts of Judicature correct expositions of the Hindoo and Mahomedan Law	The whole.
Regulation II., 1827 ...	Bombay Code	For defining the constitution of Courts of Civil Justice, and the powers and duties of the Judges and Officers thereof	Clauses 2 and 3, Section XXXIV., and Section XXXV.
Regulation XXVI., 1827	Bombay Code	For the appointment and removal of Cazees, and for ensuring an efficient and regular discharge of their duties	The whole.

Number and Date of Acts.	Title.	Extent of Repeal.
Act XXVII., 1836	For the repeal of Regulation V., 1817, of the Madras Code	The whole.
Act VII., 1843...	For abolishing the Provincial Courts of Appeal and Circuit in the Presidency of Fort St. George, and for establishing new Zillah Courts to perform their functions; for establishing Courts constituted according to Regulations I. and II., and Regulations VII. and VIII. of 1827, in place of the existing Civil and Criminal Zillah Courts, and for extending the Civil Jurisdiction of such Courts	Section LI.
Act V., 1845	Concerning the examination and appointment of Hindoo and Mahomedan Law Officers ...	The whole.

TREATY WITH BURMAH.—CUSTOMS.

Act No. XII. of 1864.

[*Received the assent of the G. G. on the 18th March*, 1864.

1. Authorizes the Governor General in Council to give effect to Act IV., 1863, by General Rules and Orders.

2. Indemnifies Collectors of Customs, &c., for acts done in carrying Act IV., 1863, into operation.

Preamble.

Whereas it is necessary to provide for the more effectual carrying out of the provisions of Act IV. of 1863 (*to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor General of India, and His Majesty the King of Burmah*), it is enacted as follows:

Governor General in Council may pass rules to give effect to Act IV. of 1863.

1. It shall be lawful for the Governor General of India in Council to make and issue rules to give effect to the said Act IV. of 1863, and regulate all matters relating to the import and export of goods or otherwise arising under that Act: and from time to time to add to, alter or revoke such rules or any of them. Provided that no rule so made shall be inconsistent with any provision of the said Act IV. of 1863, and that the penalties prescribed in such rules for their infringement shall not exceed, and shall so far as circumstances will admit be the same as, or similar to the penalties prescribed in the like cases by Act VI. of 1863 (*to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India*). All rules made under this Section shall be published in the Gazette of India.

Proviso.

Indemnity.

II. Every Collector of Customs, or other Officer, is hereby indemnified for every thing done on or after the date on which the said Act IV. of 1863 came into operation, in collecting or inforcing the Duty imposed under the provisions of that Act, or by virtue of any order of Government or otherwise in carrying the said Act IV. of 1863 into effect; and no action or other proceeding shall be maintained against any such Collector or other Officer in respect of any thing so done.

EMIGRATION.

ACT No. XIII. OF 1864.

[*Received the assent of the G. G. on the 18th March*, 1864.

Recites expediency of consolidating and amending the Emigration Laws.

1. Repeals from 1st July, 1864, Acts XIV., 1839; XV., 1842; XXI., 1843; XXI., 1844; XXV., 1845; VIII. and XIII., 1847; IV. and XXIV., 1852; XXXI., 1855; so much of Act XIX., 1856, as is not included in Acts XL, 1860, and VII., 1862; Acts XII., XXXII., XLI. and XLIX., 1860; XXII., 1862; VII., 1863.

2. Interpretation of words "Emigrate," "Emigrant," "Magistrate of the District," "British India," "Local Government," "Section," and words of Number and Gender.

3. Makes illegal specified contracts except in conformity with this Act; contracts with native laborers for service beyond British India, or to enable or assist any native to emigrate; but this provision not to apply to Emigration to any part of the continent of India, whether British or Foreign, or to Emigration to Ceylon, or to contracts with native seamen.

4—6. Authorizes contracts for Emigration to Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, and Seychelles, and St. Croix; and (5) to any other places notified in the Gazette; from (6) the date of such notification.

7, 8. Emigration not to be lawful, except from Calcutta, Madras, and Bombay; (8) at respective periods specified from and for specified places.

9. Regulates the Government Notification under Section 5.

10. Authorizes the appointment of Emigration Agent, subject to approval and removal by Local Government.

11, 12. Continues under this Act Emigration Agents under former Acts; who (12) are in future to be paid fixed salaries.

13—15. Authorizes Governments to nominate Protector of Emigrants; who, (14) except by permission, are not to hold any other office; and (15) Protectors under former Act to continue under this Act.

16. Defines the duties of Protectors of Emigrants.

17. Authorizes Local Governments to nominate Medical Inspector of Emigrants.

18, 19. Emigrant depôt to be established in Calcutta, Madras and Bombay, which (19) is to be licensed by Protector of Emigrants after being approved by Medical Inspector of Emigrants.

20. Inspection of Emigrants by Protector and Medical Inspector to be once a week.

21. Makes it the duty of the Medical Inspector to report if depôt be unsuitable or Emigrants neglected.

22. Medical Inspector a Public Servant.

23. Duty of all persons in the Emigration Service to aid Medical Inspector and Protector of Emigrants.

24—29. Protector of Emigrants to license Recruiters of Emigrants; (25) to recruit for specified places on application of Emigration Agent; and (26) license to be for one year; (27) in Form in Schedule B; and (28) Recruiter to wear a Badge; (29) and get countersignature of Local Magistrate before he recruits in any place.

30—35. Persons recruited to be taken before the Magistrate and examined, &c., and registered; and (31) fee to be paid for registration; (32) and copy of register to be sent to Protector and Emigration Agent; and (33) provides for registration in the Presidency Towns; and (34) for payment of fee for registration; and (35) for transmission of copy to place of destination.

36—40. Provides for and regulates the conveyance of Emigrant to the Depôt, where (37) on arrival he is to be reported; and (38) examined by Medical Inspector; and (39) sent back if found unfit, &c., at expense of Emigration Agent, who shall advance same; or (40) on default be liable to defray it.

41. Defines the duties of the Emigration Agent, and provides for case of his refusal to be bound without consent of Protector of Emigrants.

42, 43. Emigration Agent to give Emigrant a Pass countersigned by Protector of Emigrants; who (43) is personally to attend on examination.

44. Emigrant refusing to go, not to be compelled, but prosecuted under Section 492, Indian Penal Code.

45. For places east of Cape of Good Hope, Emigrants may leave at any time of the year, but west of it only between 31st July and 16th March, except in steam ships.

46. Only licensed vessels to carry Emigrants, and regulates the issue of license.

47—49. Directs what accommodation there shall be for Emigrants, and (48) what ship's stores; and (49) what extra clothing for west of the Cape of Good Hope.

50. Master of Emigrant ship to obtain certificate from Protector of Emigrants and Emigration Agent, of compliance with Act.

51. Emigrant not to depart if unfit for voyage.

52. Emigrant to be informed of the provisions of law in his favor.

53. Things to be done on the Emigrant's embarking.

54—58. Emigration Agent to deliver a signed list to Master, for delivery at Port of destination; and (55) Custom House Officer on leaving ship to make muster roll of Emigrants; and (56) make declaration; and (57) deliver same to Protector of Emigrants who (58) shall compare same with list in his Office.

59, 60. Emigration vessel to depart within twenty-four hours after embarkation of Emigrants, and (60) under tow of steamer.

61. Copy of Act and Rules to be on board Emigrant Ship.

62. Emigrants for Seychelles, if sick, may be taken to Quarantine Station of Mauritius.

63—66. Empowers Governor General in Council to make, &c., Rules on

specified matters; and (64) to prohibit Emigration to places under specified circumstances; (65) prohibition to take effect from date, &c.; and (66) Penal Laws against Emigration from same date.

67. Empowers Governor General in Council to revoke suspension.

68. Fees received by Magistrate, &c., to be accounted for.

69—71. Establishes penalties for unlawful contract; and (70) for recruiting without license; and for specified defaults of recruiter; and (71) for not taking Emigrant before Magistrate.

72—78. *Penalty Sections.*—(72) for forwarding coolies without prior registration; (73) for false representation as to authority to engage coolies; (74) for receiving Emigrant in unlicensed vessel; (75) for clearing ship without complying with Rules; (76) for taking Emigrant on board after clearance; (77) for fraudulent certificates, &c.; (78) for proceeding to sea without steam.

79, 80. Extends the powers of Customs Officers to prevention of illegal emigration; and (80) imposes penalty on Customs Officer.

81. Directs how prosecutions under this Act shall be instituted, &c., and how fines shall be applied.

82. Authorizes Government to give Magistrates the powers of this Act.

83. Partially repeals Act XLVI., 1860, Section 8, and saves it in all other respects, and declares the application of Sections 19 to 41 of same Act.

84. Act to come into operation on 1st July, 1864.

85. Saves from operation of Act Her Majesty's ships.

Schedule A. Of Acts repealed. B. Of Licenses to Recruiter.

Preamble. Whereas it is expedient to consolidate and amend the laws relating to the Emigration of Native Laborers, it is enacted as follows:

Acts repealed. I. From the date on which this Act shall come into operation, the Acts or parts of Acts set forth in the Schedule A annexed to this Act shall be held to be, and are hereby, repealed to the extent mentioned in the said Schedule, except so far as they repeal any other Act or Regulation, or part of any other Act or Regulation.

Interpretation. II. The following words and expressions in this Act shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction, that is to say:

"Emigrate." "Emigrant." The word "Emigrate" shall denote the departure of any Native of India out of British India for the purpose of laboring for hire in some other place; and the word "Emigrant" shall denote any Native of India under engagement to emigrate.

The words "the Magistrate of the District" shall denote the Chief Officer charged with the Executive Administration of a District, and exercising the powers of a Magistrate, by whatever designation the Chief Officer charged with such Executive Administration is styled, or in the absence of such Officer from the Station at which his Court is ordinarily held, the Senior Officer at the Station exercising the powers of a Magistrate as defined in the Code of Criminal Procedure.

"The Magistrate of the District."

The words "British India" shall denote the Territories vested in Her Majesty by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"British India."

The words "Local Government" shall denote the person authorized by law to administer Executive Government in any part of British India.

"Local Government."

"Section."

The word "Section" shall denote a Section of this Act.

"Vessel."

The word "vessel" shall include any thing made for the conveyance by water of human beings or property.

Number.

Words importing the singular number shall include the plural number and words importing the plural number shall include the singular.

Gender.

Words importing the masculine gender shall include females.

Contracts for labor out of India unlawful, except under this Act.

III. Except under, and in conformity with, the provisions of this Act, it shall not be lawful to make any contract with any Native of India for labor to be performed in any place beyond British India, or to enable any Native of India to emigrate, or to assist any Native of India in emigrating: provided that nothing in this Act shall apply to any contract with any Native of India for labor to be performed in any Foreign Settlement on the main land of India or in any Native State in India, or to emigration to any such Settlement or State; or shall apply to any contract for labor to be performed in or to emigration to the Island of Ceylon; or

shall apply to any contract with or the emigration of any Native Seamen or other person who of his own free will shall contract to navigate or serve on board of any vessel, or who shall embark on board such vessel in pursuance of such contract, or any person who shall contract to serve as a menial servant only, and who shall embark as such menial servant.

Places for emigration to which contracts may be made with Natives.

IV. Contracts may be made with Natives of India to emigrate to any of the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, and Seychelles, and to the Danish Colony of St. Croix; and it shall be lawful to enable or assist any Native of India to emigrate to any such Colony.

Governor General may declare emigrating lawful to places other than those mentioned in the last Section.

V. The Governor General of India in Council may from time to time by Notification published in the Gazette of India, declare that the emigration of Natives of India shall be lawful to any place other than the places mentioned in the last preceding Section: provided that every such notification shall contain also a declaration, that the Governor General of India in Council has duly certified that the Government of the place to which the notification refers has made such laws and other provisions as the Governor General of India in Council thinks sufficient for the protection of Natives of India emigrating to such place.

Proviso.

Contracts may be made for emigration to places to which emigration is authorized by Governor General.

VI. From the date of any such notification by the Governor General of India in Council, contracts may be made with any Native of India for labor to be performed in any place to which emigration is authorized in the notification, and it shall be lawful to enable or assist any Native of India to emigrate to such place; but all contracts and emigration under any such notification shall be made and conducted subject to the provisions of this Act.

From what ports emigration lawful.

VII. Emigration shall not be lawful except from the port of Calcutta, the port of Madras, or the port of Bombay.

VIII. The probable length of the voyages to the places enumerated in Section IV., from Calcutta, Madras, or Bombay respectively, shall for the purposes of this Act be deemed to be as follows:—

Probable length of voyages

From Calcutta	To Mauritius and Seychelles	Between the months of April and October inclusive, 10 weeks, and between the months of November and March, inclusive, 8 weeks
	To Jamaica, British Guiana, Trinidad, St Lucia, Grenada, St Vincent, St Kitts and St Croix	20 weeks
	To Natal	12 weeks
From Madras	To Mauritius and Seychelles	Between the months of April and October inclusive, 7 weeks, and between the months of November and March inclusive, 5 weeks
	To Jamaica, British Guiana, Trinidad, St Lucia, Grenada, St Vincent, St Kitts and St Croix	19 weeks
	To Natal	10 weeks
From Bombay	To Mauritius and Seychelles	Between the months of April and September inclusive, 5 weeks, and between the months of October and March inclusive, 6 weeks.
	To Jamaica, British Guiana, Trinidad, St Lucia, Grenada, St. Vincent, St Kitts, and St Croix	19 weeks
	To Natal	10 weeks.

IX. In every notification issued under Section V., there shall be stated the probable length of the voyages from Calcutta, Madras, and Bombay respectively, to every place to which emigration is by such notification authorized, and thereupon such period shall, for the purposes of this Act, be taken to be the probable length of such voyage.

Notification legalizing emigration to any new place shall give the probable length of the voyage

X. The Government of every place to which emigration shall be lawful under this Act may, from time to time, nominate a person to act as Emigration Agent in Calcutta, Madras, and Bombay respectively, but such nomination shall be subject to the approval of the Local Government. Every Emigration Agent shall be liable to removal by the Government which nominated him.

Appointment of Emigration Agent

XI. Every Emigration Agent who at the time when this Act shall come into operation shall have been nominated by the Government of any of the Colonies enumerated in Section IV., shall be deemed to have been nominated under this Act.

The present Emigration Agents to be recognized as Emigration Agents under this Act.

XII. The remuneration to be given to Emigration Agents shall not depend upon, or be regulated by, the number of Emigrants sent by such Agents, but shall be in the nature of a fixed annual salary.

Remuneration of Agents.

XIII. It shall be lawful for the Local Government to nominate a proper person to act as Protector of Emigrants at each of the three ports aforesaid, and with the sanction of the Governor General of India in Council to assign to such person such salary and establishment as shall be deemed proper. Every Protector of Emigrants shall be subject to removal by the Local Government to which he is subordinate.

Appointment of Protector of Emigrants.

XIV. No Protector of Emigrants nominated under this Act shall, except with the permission of the Local Government, hold any other office under Government, or follow any other profession or occupation.

No Protector to hold other office without permission.

XV. Every Protector of Emigrants who at the time when this Act shall come into operation shall have been nominated by the Local Government, shall be deemed to have been nominated under this Act.

Existing Protectors to be deemed Protectors under this Act.

XVI. Every Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall so far as is in his power generally protect and aid with his advice or otherwise all Emigrants, and shall cause all the provisions of this Act to be duly complied with: he shall also inspect on arrival all vessels bringing return Emigrants to the port at which he is Protector, and enquire into the treatment received by such Emigrants both during the period of their service in the place to which they emigrated, and also during the voyage, and shall make a report thereon to the Local Government, and he shall aid and advise such return Emigrants so far as he reasonably can when called upon by them to do so.

General duties of the Protector of Emigrants.

As to inspecting vessels with return Emigrants.

XVII. At each of the three ports aforesaid, it shall be lawful for the Local Government to nominate a competent person to be Medical Inspector of Emigrants; and with the sanction of the Governor General

Appointment of Medical Officer.

of India in Council to assign to the Medical Inspector so nominated such salary as shall be deemed proper.

Depôts to be established in Calcutta, Madras, and Bombay, for each Emigration Agency

XVIII. In each of the Towns of Calcutta, Madras, and Bombay, or in the Suburbs of those Towns, a suitable depôt shall be established by the Emigration Agent of every place to which emigration shall be lawful under this Act, for the persons who shall be engaged as laborers for such place; and by the Emigration Agent nominated by the French Government under Act XLVI. of 1860 (*to authorize and regulate the Emigration of Native Laborers to the French Colonies*), and Act VII. of 1862 (*to amend Act XLVI. of* 1860), for the persons who shall be engaged as laborers for the French Colonies.

Licensing of depôts

XIX. Every depôt shall be licensed by the Protector of Emigrants after being inspected and approved of by him and by the Medical Inspector of Emigrants. No license shall be in force for a longer period than a year, and any license may be cancelled by the Protector of Emigrants if he shall consider that the depôt for which it was granted is unhealthy or in any respect has become unsuitable for the purpose for which the depôt was established. For every license granted under this Section, there shall be paid to the Protector a fee of ten Rupees.

Inspection by Protector and Medical Inspector.

XX. Every Protector of Emigrants and every Medical Inspector of Emigrants shall, from time to time, and at least once in every week, inspect the Emigrants in the various depôts for the reception of Emigrants about to embark from the port at which they are Protector and Medical Inspector respectively, and examine into the state of the depôts, and the manner in which the Emigrants are therein lodged, fed, clothed, and otherwise provided for and attended to.

Report to be made by Medical Inspector.

XXI. It shall be the duty of the Medical Inspector to report to the Protector of Emigrants any circumstance which may come to his knowledge, showing that the depôt is not suitable for its purpose, or that the Emigrants are treated with any neglect or oppression.

Protectors and Medical Inspectors to be deemed Public Servants.

XXII. Every Protector of Emigrants and every Medical Inspector of Emigrants shall be held to be a Public Servant within the meaning of the Indian Penal Code.

And to have every facility for inspections, &c.

XXIII. It shall be the duty of every Emigration Agent, and of all persons in charge of or employed in any depôt, or in any vessel licensed to carry Emigrants as hereinafter provided, to give the Protector and the Medical Inspector every facility for making such inspections, examinations, and surveys as may be necessary or proper under this Act, and to afford them all such information as may be reasonably required by them.

Protector of Emigrants to license Recruiters.

XXIV. The Protector of Emigrants at each of the three ports aforesaid, shall license so many fit persons as shall to him seem necessary, to be Recruiters of laborers, and no person shall act or be employed as a Recruiter of laborers except under a license from a Protector of Emigrants.

Recruiter's License.

XXV. Every Recruiter shall be licensed to obtain laborers for some particular place to which emigration shall be lawful under this Act, and no license to obtain laborers for any place shall be granted except on the application of the Emigration Agent of such place.

Duration of license, and cancelment in case of misconduct.

XXVI. No license shall be in force for a longer period than one year; and in case of misconduct on the part of any Recruiter, the Protector of Emigrants may cancel his license before the expiration of the period for which it was granted.

Form of license, and fee to be paid.

XXVII. Every license shall be in the form set forth in the Schedule B to this Act annexed. For every license there shall be paid to the Protector a fee of ten Rupees.

Recruiter to wear badge.

XXVIII. Every person holding a license as a Recruiter of laborers shall wear a badge bearing the following inscription in English, and in the vernacular language of the Town, District or Districts in which he is licensed to engage laborers—[*Recruiter of Emigrants for the Mauritius* (*or other place as the case may be*)].

Recruiter to have his license countersigned by a Magistrate where he is recruiting.

XXIX. No Recruiter shall engage or attempt to engage laborers in any District or in the Towns of Calcutta, Madras or Bombay, without having first exhibited his license to the Magistrate of such District, or a Magistrate of such Town, and obtained the countersignature of such Magistrate thereupon. Such countersignature shall be given, provided that the license is in force at the time.

Natives engaging to emigrate not to leave their district without appearing before Magistrate.

XXX. Every native of India, who shall in any place other than the Towns of Calcutta, Madras or Bombay, enter into any engagement with a Recruiter to emigrate, shall, prior to leaving the District within which the engagement was entered into, appear with the Recruiter before the Magistrate of such District, and no Recruiter shall remove such Emigrant from the said District until he shall have so appeared. Upon so appearing, the Magistrate shall examine the intending Emigrant with reference to his engagement; and if it appears that he comprehends the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Magistrate shall register in a book to be kept for the purpose, in such form as the Local Government shall prescribe, the name, name of the father, and the age of such Emigrant, and the name of the village or place of which such Emigrant is a resident, the Emigration depôt to which it is intended he shall proceed, and the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter. If the Magistrate shall be of opinion that the intending Emigrant does not comprehend the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name. A copy of every registration under this Section, written on substantial paper which shall not require a Stamp, shall be furnished by the Magistrate to the Emigrant registered.

Examination and registration.

Fee for registration.

XXXI. For the registration of every Emigrant, the Recruiter shall pay to the Magistrate a fee of one Rupee. On proof of the desertion of any Emigrant before reaching the depôt for which he was registered, the fee paid in respect of such Emigrant may be refunded by the

Magistrate to the Recruiter by whom it was paid, under such Rules as shall from time to time be made in that behalf by the Governor General of India in Council.

Copy of registration to be sent to Emigration Agent and Protector.

XXXII. Authentic copies of every registration shall be forthwith forwarded by the Magistrate to the Emigration Agent at the depôt to which the person named therein shall have been engaged to proceed, and to the Protector of Emigrants at the intended port of embarkation.

Registration of Emigrants recruited in Presidency Towns.

XXXIII. Every Native of India, who shall in the Towns of Calcutta, Madras or Bombay enter into any engagement with a Recruiter to emigrate, shall within forty-eight hours of making such engagement appear with the Recruiter before the Protector of Emigrants in such Town, and no Recruiter shall remove such Emigrant from the said Town, or to any emigration depôt, until he shall have so appeared. Upon his so appearing, the Protector of Emigrants shall examine the intending Emigrant with reference to his engagement; and if it appears that he comprehends the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Protector of Emigrants shall register in a book to be kept for the purpose, in such form as the Local Government shall prescribe, the name, the name of the father, and the age of such Emigrant, and the name of the village or place of which such Emigrant is a resident, the Emigration depôt to which it is intended he shall proceed, and the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter. If the Protector of Emigrants shall be of opinion that the intending Emigrant does not comprehend the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name. A copy of every registration under this Section, written on substantial paper which shall not require a stamp, shall be furnished by the Protector to the Emigrant registered.

Fee for registration by Protector.

XXXIV. For the registration of every Emigrant under the last preceding Section, the Recruiter shall pay to the Protector of Emigrants a fee of one Rupee. On proof of the desertion of any Emigrant before reaching

the depôt for which he was registered, the fee paid in respect of such Emigrant may be refunded by the Protector to the Recruiter by whom it was paid, under such rules as shall from time to time be made in that behalf by the Governor General of India in Council.

Copy of registration by Protector, to be forwarded to Agent.

XXXV. An authentic copy of every registration by a Protector of Emigrants shall be forthwith forwarded by the Protector to the Emigration Agent of the place for which the person named therein shall have been engaged.

Conveyance of Emigrant to depôt.

XXXVI. 1. Every Emigrant recruited under the provisions of this Act, shall be conveyed by land or river with all convenient despatch to the depôt at the port of embarkation, established by the Emigration Agent of the place to which such Emigrant has contracted to emigrate.

Emigrants shall be accompanied to depôt by Recruiter, or person approved by Magistrate.

2. The Registered Emigrants engaged by any Recruiter shall, while proceeding to a depôt, be accompanied throughout the journey either by the Recruiter himself or by a competent person appointed by him with the approval of the Magistrate by whom the Emigrants may have been registered. The Magistrate shall give to the person so appointed a certificate under his signature, stating that he has been appointed for the journey to the depôt.

Recruiter to provide suitable food and lodging.

3. Every Recruiter by or through whom Emigrants may be forwarded to a depôt, shall throughout their journey provide them with suitable lodging and food.

Arrival at depôt to be reported to Emigration Agent, and to Protector.

XXXVII. The arrival of each Emigrant at a depôt shall immediately be reported by the person in charge of the depôt to the Emigration Agent, and by such Agent to the Protector of Emigrants.

Copy of registration to be exhibited to Medical Inspector.

And Emigrants to be inspected by him.

XXXVIII. The copy of the registration of every Emigrant, received by the Emigration Agent from the Magistrate or from the Protector of Emigrants, shall as soon as conveniently may be after the arrival of the Emigrant be exhibited to the

Medical Inspector of Emigrants; and the Emigrant shall be examined by the Medical Inspector to ascertain if he is in a fit state of health to emigrate to the place to which he has contracted to proceed. The Medical Inspector, if satisfied of his fitness, shall give a certificate thereof to the Emigration Agent: if satisfied of his unfitness, he shall give a certificate thereof to the Protector of Emigrants.

If unable to proceed from bad health, or if irregularly recruited, Emigrant to be sent back to place where he was registered.

XXXIX. If the Medical Inspector shall certify that any Emigrant is not in a fit state of health to emigrate to the place to which he has contracted to proceed, or if any irregularity shall have occurred in the recruitment of any Emigrant, it shall be lawful for the Protector of Emigrants to order the Emigration Agent in whose depôt such Emigrant may be, forthwith to pay to him, the Protector of Emigrants, such reasonable sum as shall be necessary to enable the laborer to return to the place where he was registered, and the Protector may take any steps he thinks necessary for the conveyance of the laborer to such place.

Provision for case of Emigration Agent failing to pay sum required to enable Emigrant to return.

XL. On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any such sum of money as in the last preceding Section mentioned, it shall be lawful for the Protector to pay the same to or on behalf of the Emigrant, and every sum so disbursed shall be recoverable by the Protector, with six per cent. interest from the date of disbursement, from the Emigration Agent on whose default it may be paid, as money paid to the use of such Emigration Agent. No further proof shall be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay the same, and that the Emigration Agent for a space of twenty-four hours made default in complying therewith. Provided that any Emigrant who from his state of health is in the opinion of the Medical Inspector unfit to undertake the journey back to the place where he was registered, shall, in addition to his being conveyed back at the expense of the Emigration Agent, be entitled to continue in the depôt and to be fed, clothed, lodged and attended to there, by and at the expense of the Emigration Agent, until such time as the Protector shall otherwise order.

Duty of Emigration Agent.

XLI. The Emigration Agent, in the presence of the Protector of Emigrants and within forty-eight hours after the arrival of each Emigrant at the depôt, shall ascertain by personal communication with such Emigrant whether or not he has been properly fed and otherwise properly treated on his journey to the depôt. The Emigration Agent shall also, in the presence of the Protector and within such time as aforesaid, examine the copy of the registration furnished to the Emigrant under Section XXX. or Section XXXIII. If for any reason further enquiry be necessary, such enquiry shall be made forthwith. Unless the Emigration Agent shall with the consent of the Protector refuse to recognize or to be bound by the contract entered into by the Recruiter with the Emigrant, as shown by the copy of the registration produced by the Emigrant, such copy, if it be a copy furnished under Section XXX., shall be countersigned by both the Emigration Agent and the Protector, and, if it be a copy furnished under Section XXXIII., shall be countersigned, by the Emigration Agent alone; and the copy so countersigned, under whichever Section it may have been furnished, shall be delivered back to the Emigrant. If the Emigration Agent shall, without the consent of the Protector, refuse to be bound by the contract entered into by the Recruiter with the Emigrant, the Protector may thereupon order the Emigration Agent forthwith to pay to him, the Protector of Emigrants, such reasonable sum as shall be necessary to enable the Emigrant to return to the place where he was registered, and on failure of the Emigration Agent to pay such sum within twenty-four hours of his being ordered so to do, the Protector may pay the same to or on behalf of the Emigrant, and all the provisions of the last preceding Section as to sums paid by the Protector shall be applicable, so far as the circumstances of the case will permit, to sums paid by him under this Section. The Protector shall also, in every case in which it shall seem to him proper to do so, institute a suit on behalf of the Emigrant against the Emigration Agent, for the recovery of damages for the breach of contract committed by the Emigration Agent. In every such suit, the contract entered into by the Recruiter shall be deemed to have been entered into by and to be binding on the Emigration Agent.

Provision for case of Agent refusing without consent of Protector to be bound by contract made by Recruiter.

XLII. After the examination in the last preceding Section provided, and if the Medical Inspector shall have given a certificate of the fitness of the Emigrant to emigrate, the Emigration Agent shall deliver to the Emigrant a Pass, countersigned by the Protector of Emigrants as hereinafter provided, stating the name and age of the Emigrant and the name of his father, and certifying that he is in a fit state of health to emigrate to the place to which he has contracted to go.

After examination and Medical Inspector's certificate, Emigration Agent to grant a Pass.

XLIII. The Protector of Emigrants shall attend personally at the examination and passing of Emigrants by the Emigration Agent under Sections XLI. and XLII., and shall see that the Emigration Agent makes all such enquiries of the Emigrants as it may be his duty to make; and if such Protector is satisfied with such enquiries, but not otherwise, he shall countersign the Pass granted by the Emigration Agent.

Protector of Emigrants to attend personally at examination and passing of Emigrants.

And to countersign Pass.

XLIV. If any Emigrant shall without good and sufficient cause refuse or neglect to embark when called upon by the Emigration Agent so to do, it shall not be lawful to compel such Emigrant to embark or to put him on board ship against his will, or to detain him against his will at the depôt or elsewhere: but nothing in this Section shall be taken to diminish or affect in any way the legal liabilities, Civil or Criminal, of such Emigrant incurred by him by reason or in respect of his refusal or neglect aforesaid. Every case in which an Emigrant is charged before a Magistrate of a Presidency Town with refusing or neglecting to embark without good and sufficient cause, shall be heard and determined by such Magistrate in a summary manner, and every such laborer shall, on conviction, be punished in the manner provided in Section CCCCXCII. of the Indian Penal Code for the punishment of offences under that Section.

Emigrants refusing to embark, not to be compelled to embark.

Proviso.

XLV. Emigrants may leave India for any place East of the Cape of Good Hope to which emigration may be lawful under this Act at all times of the year. For any such place West of

Time of sailing for places East of Cape of Good Hope.

the Cape of Good Hope, Emigrants may leave only between the Thirty-first of July and the Sixteenth of March, unless they embark in vessels using steam power, in which case they may leave at any time of the year.

For other places.

XLVI. 1. It shall not be lawful to receive any Emigrant on board any vessel unless a license to carry Emigrants in such vessel shall have been obtained from the Local Government, and the granting or withholding any such license shall be entirely discretionary with the Local Government.

Emigrant not to be received on board an unlicensed ship.

2. The Master or owner of any vessel who is desirous of obtaining a license to carry Emigrants in such vessel, shall apply in writing through the Protector of Emigrants to the Local Government for such license.

Application for license.

3. Every application for a license shall state the number of men, women, and children proposed to be carried, and the tonnage and other particulars respecting the vessel.

What to contain.

4. The Protector of Emigrants shall cause the vessel to be carefully surveyed by a competent person, with a view to ascertain her sea-worthiness and the extent and nature of her accommodation for Emigrants, and to ascertain that she is properly ventilated and is supplied with all the requisite tackle for her voyage.

Survey of vessel.

5. The Protector of Emigrants shall make a full report on the survey to the Local Government; and if he is of opinion that the vessel is in all respects suitable for the carrying of Emigrants under this Act, but not otherwise, he shall give a certificate to that effect to the Master of the vessel.

Report after survey, and certificate to Master.

6. In consideration of his obtaining a license to carry Emigrants, the Master of every vessel intended to carry Emigrants shall, upon the requisition of the Protector of Emigrants, and before any Emigrant shall embark on board of such vessel, execute in duplicate a bond, in such form as the Local Government shall prescribe, binding himself and his owners in a penal sum of ten thousand Rupees to

Bond to be executed by Master.

conform to the several conditions in this Act provided. It shall be the duty of the Protector of Emigrants to require the Master to execute such bond as aforesaid in duplicate, and to forward one copy of it to the Government of the place to which the Emigrants are to be carried, and the other copy of it to the Local Government.

Space and accommodation required on board Emigrant ships.

XLVII. 1. No certificate under the last preceding Section shall be granted unless there shall be provided for the Emigrants, either between decks or in cabins on the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

2. No compartment shall take more than one adult Emigrant for every ten superficial feet on deck, and for every cubic space of seventy-two feet.

3. A distinct and separate place shall be fitted up for a hospital in every Emigrant Ship.

4. Women and children shall occupy a compartment of the vessel distinct and separate from the compartments of the single men.

5. An Emigrant above the age of ten years shall for the purposes of this Act count as an adult, and two children from one to ten years of age shall count as one adult.

Provisions, fuel and water to be shipped and taken.

XLVIII. 1. There shall be actually laden and on board of every vessel carrying Emigrants at the time of the departure of such vessel from the port at which the Emigrants shall embark, in such quantity, and of such description and quality, as may be prescribed by any rule framed by the Governor General of India in Council under Section LXIII., good and wholesome provisions for the use and consumption of the said Emigrants, with fuel for cooking the same, over and above the victualling of the Captain, Officers, and crew, and of the cabin and other passengers, if any, and a supply of water, which shall be carried in tanks or casks to be approved by the Protectors of Emigrants, to the amount of seven gallons for every week of the computed voyage for every Emigrant on board such ship or vessel. When casks are used they shall be sweet and tight, of sufficient strength,

and if of wood properly charred inside, and shall not be capable severally of containing more than three hundred gallons each; the staves of the water casks shall not be made of fir, pine, or soft wood.

Surgeon, medicines, and stores to be carried.

2. Every such vessel shall, at the time of departure aforesaid, have actually on board and shall carry with her a properly qualified European or Native Surgeon, and such Medicines and other stores in such quantity and of such quality as may be prescribed by any Rules made under Section LXIII.

Supply of water for vessel destined to call at intermediate port.

3. When any vessel shall be destined to call at a port or place in the course of her voyage for the purpose of filling up her tanks or casks, a supply of water at the rate hereinbefore mentioned, for every week of the probable voyage to such port or place of calling, shall be deemed to be a compliance with this Section. The probable length of the voyage to such port or place of calling shall be determined from time to time by the Protector of Emigrants, subject to the approval of the Local Government.

Reduction of supply on vessel fitted with distilling apparatus.

4. When any such vessel is fitted with Normandy's apparatus, or other apparatus approved by the Protector of Emigrants, for distilling sea water, and with proper and sufficient means for working the same, a reduction shall be allowed of one-third in the quantity of water required under this Section.

Protector and Inspector of Emigrants to ensure compliance with above provisions.

5. It shall be the duty of the Protector of Emigrants and of the Medical Inspector of Emigrants to see personally that all the provisions of this Section are complied with.

Protector of Emigrants to see that Emigrants are supplied with extra clothing at a certain season of the year.

XLIX. Before any vessel carrying Emigrants clears out for any place westward of the Cape of Good Hope, between the First day of March and the Fifteenth day of September, the Protector of Emigrants shall personally see that every Emigrant is supplied with at least one extra double blanket, and that the same is placed with his other clothing or luggage. Every Emigrant shall be allowed to make use of such double blanket so long as the vessel is outside of the Tropics.

Master of vessel to obtain certificates from Protector of Emigrants and from Emigration Agent.

L. Before any vessel licensed to carry Emigrants shall be cleared out from the Port of Calcutta, Madras, or Bombay, it shall be necessary for the Master of such vessel to obtain from the Protector of Emigrants at the port of clearance, and from the Emigration Agent for the place to which the Emigrants are intended to proceed, certificates under the hands of such Protector and Emigration Agent respectively, to the effect following, that is to say:—that such Protector and Emigration Agent have, in respect of the Emigrant's proceeding in such vessel, done all which is hereinbefore by this Act required to be done on the part of such Protector and Emigration Agent respectively; and that all the directions contained in this Act, for ensuring the health, comfort, and safety of the Emigrants, have been duly complied with, as well as all such rules as the Governor General of India in Council shall from time to time frame under Section LXIII.

Emigrant unfit to undertake voyage not to be allowed to embark.

LI. The Protector of Emigrants shall, from the report of the Medical Inspector and by personal communication with every Emigrant before embarkation, ascertain that the Emigrant is in good health and not incapacitated from labor by old age, bodily infirmity, or disease. If the Protector of Emigrants shall be of opinion that any Emigrant is in a state of health which makes him unfit to undertake the voyage on which he is about to embark, the Protector shall refuse to permit the embarkation of such Emigrant. The Protector of Emigrants shall also before the embarkation of any Emigrant, ascertain that such Emigrant has in his possession the copy of the registration provided under Section XXX. or Section XXXIII. If it shall appear to the satisfaction of the Protector of Emigrants that any Emigrant has lost the copy of the registration aforesaid, the Protector may furnish such Emigrant with a copy of such registration to be made from the copy received by the Protector from the Magistrate under Section XXXII., or from the Register kept by himself under Section XXXIII., and shall thereupon allow such Emigrant to embark.

LII. The provisions of this Act, so far as they are likely

Provisions of Act to be explained to all Emigrants.

more immediately to affect them, shall be explained in a general manner by the Protector of Emigrants to all Emigrants prior to their embarkation.

LIII. 1. When any Emigrants are about to embark on any vessel, the Emigration Agent for the place to which they are intended to proceed shall furnish the Master of the vessel with five copies of a list, specifying, as accurately as may be, the names, ages, and occupations, and the names of the fathers, of the Emigrants about to embark on board such vessel.

Procedure on embarkation of Emigrants.

2. On embarkation, every Emigrant shall deliver to the Master of the vessel the Pass granted to him under Section XLII.; and it shall not be lawful for the Master to receive any Emigrant on board unless he delivers up such Pass. The Master shall compare the Emigrants who embark and the Passes delivered by them, with the list furnished by the Emigration Agent, and if the list appear to be correct, and to correspond with the Passes delivered and with the Emigrants embarked, the Master shall sign the five copies of the list.

Emigrant to give his Pass to Master.

3. It shall be the duty of the Protector of Emigrants to be personally present at the embarkation of all Emigrants, and to see that the Master duly compares the list with the Passes and Emigrants, and he shall himself also compare the list with the Passes and Emigrants.

Protector to be personally present.

4. When the copies of the list have been signed, the Master shall give two copies to the Protector of Emigrants, who shall sigh such copies if he believes them to be correct, and shall return one copy to the Master of the vessel: the other copy shall be filed in the Office of the Protector of Emigrants.

One copy of list of Emigrants given to Protector, to be signed and returned to Master.

5. The Protector of Emigrants shall not permit any Emigrant to remain on board who has not a Pass, or is not mentioned in the list aforesaid.

Emigrant not having Pass not to be allowed to remain on board.

6. Every Pass delivered up to the Master of a vessel under this Section shall be returned by him to the Emigrant by whom the same was delivered up, prior to such Emigrant disembarking on the arrival of the vessel at her place of destination.

Pass to be returned to Emigrant on arrival at place of destination.

LIV. The Master of every vessel carrying Emigrants shall, after the embarkation of the Emigrants and before the departure of the vessel, give to the Emigration Agent at the port from which such vessel is cleared out two others of the five copies of the list of Emigrants mentioned in the last preceding Section, duly signed by the Master. The Emigration Agent shall thereupon sign such copies, and shall return to the Master one of the said copies, which shall, on the arrival of the vessel at the place of destination, and previous to the disembarkment of any Emigrant, be delivered by the Master to the Protector of Emigrants, or other the proper Officer, at such place.

Copy of list of Emigrants to be signed by Emigration Agent, and returned to Master.

And by him to be delivered at place of destination.

LV. Whenever a vessel carrying Emigrants shall have cleared and shall be proceeding to Sea, the Officer of Customs or the Pilot, whichever of these Officers shall remain last on board of the vessel, shall as shortly as conveniently can be before his leaving the vessel, make a muster of the crew and passengers and Emigrants. Such Officer of Customs or Pilot shall use as a muster-roll a copy of the list signed by the Master and by the Protector of Emigrants under Section LIII., which copy shall be furnished to him by the Master; and after the muster he shall sign such muster-roll, noting upon it such discrepancies (if any) as he may have observed.

Muster of crew and passengers and Emigrants.

LVI. Every Officer of Customs and Pilot who shall make a muster under the last preceding Section, shall make a declaration, stating according to the best of his belief that no additional Emigrant has been received on board since the list was signed by the Protector, and that nothing else has been done or omitted to be done in the vessel contrary to the provisions of this Act. Every such muster-roll and declaration shall be transmitted without delay to the Protector of Emigrants at the port of embarkation.

Declaration by Customs Officer or Pilot.

LVII. It shall be the duty of the Protector of Emigrants on the receipt of the muster-roll furnished by the Officer of Customs or Pilot under the last preceding Section, carefully to compare the same with the list signed by the Master

Duty of Protector of Emigrants on receipt of list from Customs Officer or Pilot.

filed in the Office of the Protector, and to report any discrepancy to the Local Government.

Protector shall send to Government of place to which Emigrants are going, a list of Emigrants on board each vessel.

LVIII. The Protector of Emigrants shall, by every vessel which carries Emigrants, send to the Protector of Emigrants or other the proper Government Authority at the place for which the Emigrants embark, a correct and detailed list of all Emigrants embarked in such vessel, compiled from the Passes of the Emigrants, and from the list signed by the Master as aforesaid.

Vessels sailing from Calcutta to depart within twenty-four hours of embarking Emigrants.

LIX. The Master of every vessel carrying Emigrants from the Port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the Emigrants as shall have first embarked.

Vessels sailing from Calcutta to be towed to Sea by Steamer.

LX. Every vessel sailing from the Port of Calcutta with Emigrants shall proceed from Garden Reach to Sea under tow of a competent Steamer.

Copies of Act and Rules to be kept on board every vessel carrying Emigrants.

LXI. Two copies of this Act and of all Rules made by the Governor General of India in Council under Section LXIII., and two copies of a translation of this Act and of such Rules, in such language or languages as the Local Government may direct, shall be delivered to the Master of every vessel carrying Emigrants by the Emigration Agent at the time of clearance, and shall be kept on board of every such vessel during the whole voyage, and one of such copies or translations shall, upon request made at all reasonable times to the Master of the vessel, be produced to any Emigrant or passenger for his perusal.

In case of sickness, Emigrants for Seychelles may be taken to Quarantine Station of Mauritius.

LXII. In case of sickness breaking out on board of any vessel conveying Emigrants to the British Dependency of Seychelles, such Emigrants may be taken to the Quarantine Station of the Island of Mauritius, and in such case such Emigrants may, at their option, contract for service at the said Island of Mauritius, or may proceed to the said Dependency of Seychelles; and if they shall elect to contract for service in the

Island of Mauritius, such Emigrants shall then be regarded and treated, in all respects, as if they had emigrated to the said Island under the provisions of this Act.

Power of the Governor General in Council to make Rules.

LXIII. It shall be lawful for the Governor General of India in Council from time to time to make Rules, and to repeal, alter, and amend the same, not inconsistent with the provisions of this Act—

1. To regulate the proportion of women to be taken with Emigrants, and the age below or above which children shall not be taken.

2. To prescribe the description, quantity, and quality of provisions to be taken by vessels carrying Emigrants, the daily allowance of food and water to be issued to each Emigrant during the voyage, and the nature and amount of clothing which shall be supplied to the Emigrants.

3. To provide for the Medical care of Emigrants during their residence at the depôts and on their voyages.

4. To prescribe the nature, quality and quantity of Medical drugs and other stores to be carried on board such vessels.

5. To provide for the ventilation and cleanliness of such vessels during their voyages, and for their being furnished with a sufficient number of suitable boats for use in case of shipwreck or fire.

6. To provide for a Journal being kept by the Surgeon of every such vessel, of the health of the Emigrants, and of his treatment of the sick, together with full explanations of the causes of every death.

7. And generally to provide for the security, well-being and protection of Emigrants.

All such Rules shall be published in the Gazette of India, and shall have the same force and effect as if they were contained in this Act.

Governor General in Council may prohibit emigration of Native laborers to any place to which emigration is allowed.

LXIV. Whenever the Governor General of India in Council shall have reason to believe, that in any place to which emigration is lawful under this Act, proper measures have not been taken for the protection of Emigrants immediately upon their arrival in such place or during their residence therein, or for their safe return to India, or to provide a

return passage to India for any such Emigrants at or about the time at which they are entitled to such return passage, it shall be lawful for the said Governor General of India in Council, by notification published in the Gazette of India, to declare that emigration to such place shall cease and be prohibited from a certain day to be specified in the notification.

Emigration to place mentioned to be suspended from the day specified in the notification.

LXV. After any notification shall have been published under the last preceding Section, emigration to such place as is specified in such notification shall be suspended from the day specified in the notification: but such suspension shall not affect any act done, offence committed, or proceedings commenced before such suspension.

During such suspension, all the laws against emigration shall be in force as to the place, specified in the notification.

LXVI. During the time of such suspension, any provisions of this or of any other Act in force for the time being, prohibiting emigration, or the aiding or abetting of emigration, or the making of any contract for labor to be performed by any Native of India out of the British Territories in India, shall take effect and be in force so far as relates to the place specified in the notification, in the same manner and to the same extent as if emigration to such place had never been declared to be lawful.

Revocation of suspension.

LXVII. Whenever the Governor General of India in Council shall be satisfied that, in the place specified in any notification under Section LXIV., proper measures have been taken and will be adopted for the protection of Emigrants immediately upon their arrival thereat and during their residence therein, and for their safe return to India, and for providing return passages to India for such Emigrants at or about the time at which they are entitled to such return passages, it shall be lawful for the said Governor General of India in Council to notify in the Gazette of India that emigration to such place shall again be allowed from a day to be specified in such notification; and thereupon all the provisions of this or any other Act in force for the time being authorizing emigration to such place shall, from the day specified, be revived and have the same force and effect as if such

emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced during the time of such suspension.

Fees received are to be accounted for to Government.

LXVIII. All fees received by any Magistrate, Protector of Emigrants, or other Officer under this Act, shall be accounted for to Government in such manner as the Governor General of India in Council may direct.

Penalty for making unlawful contract of labor.

LXIX. Whoever shall, except under and in conformity with the provisions of this Act, make any contract with any Native of India for labor to be performed in any place beyond British India to which emigration is not authorized under this Act, or under the said Acts XLVI. of 1860 and VII. of 1862, shall be deemed to have committed the offence specified in Section 363 of the Indian Penal Code; and whoever shall knowingly enable or assist any Native of India to emigrate to any such place, or aid in or abet the emigration of any Native of India to any such place, shall be deemed to have abetted the commission of that offence.

Penalty for recruiting without being licensed.

LXX. Whoever, not being a Recruiter duly licensed under this Act, shall act or be employed as a Recruiter of laborers, or shall, contrary to the provisions of this Act, enter into any contract with a Native of India for labor to be performed by such Native of India in any place beyond British India (whether emigration to such place is or is not authorized under this Act, or under the said Acts XLVI. of 1860 and VII. of 1862), shall be liable to a fine not exceeding five hundred Rupees.

Penalty for Recruiter failing to take the laborers he has engaged before the Magistrate of the District, or the Protector of Emigrants.

LXXI. Whoever, being a duly licensed Recruiter, shall remove any Emigrant in whom he may engage in any District or place other than the Towns of Calcutta, Madras, or Bombay, from such District or place, without such Emigrant having appeared along with the Recruiter before the Magistrate of the District in order that such person might be examined and registered; and whoever shall remove any Emigrant whom he may engage in any one of the Towns of Calcutta, Madras, or Bombay, from such Town, or to an Emigration depôt, without such Emigrant

having appeared with the Recruiter before the Protector of Emigrants in order that such person might be examined and registered; and whoever shall by means of intoxication, violence, fraud, or false pretences induce any Native of India to enter into a contract for labor to be performed by him in any place to which emigration shall be lawful under this Act, or to proceed to any such place without having entered into any contract; and whoever shall fail to supply any Emigrant whom he shall have engaged, and who shall be registered, with suitable food, or shall otherwise ill-treat such Emigrant on his journey to the depôt; and whoever shall forward, send, or convey any such Emigrant otherwise than is provided in Section XXXVI., or to any house or place in or near the Towns of Calcutta, Madras, or Bombay, respectively, other than the depôt for the Emigrants for the place at which such Emigrant shall have contracted to labor—shall be liable to a fine not exceeding five hundred Rupees.

For inducing laborer to contract by fraud, &c.

For not supplying proper food; &c.

And for not taking the laborer to the depôt for the place at which he has contracted to labor.

LXXII. Whoever, being a duly licensed Recruiter, shall forward or send any Emigrant from the District or Town in which he has entered into an engagement, to any emigration depôt, without such Emigrant having been duly registered in accordance with the provisions of Sections XXX. and XXXIII., and whoever being a duly licensed Recruiter, shall induce or knowingly permit any such Emigrant to leave such District or Town, or to proceed to any emigration depôt, for the purpose of emigrating to any place, without the Emigrant being duly registered as aforesaid—shall be liable to a fine not exceeding five hundred Rupees.

Penalty for forwarding laborers or allowing them to go, without being duly registered.

LXXIII. Whoever, without lawful authority, shall issue any written perwannah or order to the Police to assist himself or any other person to procure laborers to proceed to any place beyond British India, or shall falsely represent that such laborers are required by the Government or are to be engaged on behalf of Government, shall be liable to a fine not exceeding five hundred Rupees.

Penalty for false representation of Government authority.

Penalty for receiving Emigrants in an unlicensed vessel.

LXXIV. If the Master of any vessel which shall not have been licensed, as provided in Section XLVI., shall knowingly receive any Emigrant on board in order to convey such Emigrant to any place contrary to the provisions of this Act, such Master of such vessel shall be liable to simple or rigorous imprisonment for a period not exceeding one year, and also to a fine not exceeding one thousand Rupees for every such Emigrant received on board, and the vessel shall be liable to be forfeited.

Penalty for clearing ship without complying with rules.

LXXV. If the Master of any vessel shall, at the Port of Calcutta, the Port of Madras, or the Port of Bombay, clear such vessel for any place to which emigration shall be lawful under this Act and take on board any Emigrant without having fully complied with every particular required in Sections XLVIII. and L., he shall be liable to a fine not exceeding two hundred Rupees for every Emigrant so taken on board.

Penalty for taking on board after clearance Emigrants not entered in list.

LXXVI. If the Master of any vessel shall, after having cleared such vessel for any place to which emigration shall be lawful under this Act, take on board any Emigrant without such Emigrant having been duly entered in the lists mentioned in Section LIII. and LIV., and in the manner in those Sections prescribed, he shall be liable to a fine not exceeding two hundred Rupees for every Emigrant so taken on board his vessel.

Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.

LXXVII. If the Master of any vessel cleared for any place to which emigration shall be lawful under this Act, shall after having obtained a certificate in accordance with the provisions of Section XLVI., fraudulently do, or suffer to be done, any act or thing whereby such certificate shall become inapplicable to the altered state of the vessel, or other matter to which such certificate relates, such Master shall be liable to a fine not exceeding five thousand Rupees, besides incurring a forfeiture of any bond executed in consideration of any license obtained for the vessel as originally described.

Penalty for proceeding to sea without steam.

LXXVIII. If the Master of a vessel sailing from the port of Calcutta, licensed under Section XLVI., and sailing with Emigrants on board, shall, without

reasonable excuse, cause or allow his vessel to proceed from Garden Reach to Sea, or to proceed any part of the distance between Garden Reach and Sea, without his vessel being under tow of a competent Steamer, or if such vessel shall not have left Garden Reach and proceeded on her voyage within the time prescribed in Section LIX., the Master of such vessel shall be liable to a fine not exceeding one thousand Rupees.

Customs Officers and Pilots may search and detain for purposes of this Act.

LXXIX. All the powers vested by law in the Officers of Customs in regard to the searching and detention of vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by such Officers for the prevention of the illegal embarkation of Emigrants on board vessels bound for any place to which emigration shall be lawful under this Act, and of other offences against this Act; and all Pilots in the service of, or licensed by, Government, are hereby vested with the same powers and charged with the same duties as Officers of Customs in this behalf.

Penalty for false report by Customs Officer or Pilot.

LXXX. Any Officer of Customs, or Pilot, who shall wilfully make a false, erroneous, or incomplete report of the Emigrants on board of any vessel, or who shall connive at the unauthorized embarkation of any Emigrants, shall be liable, besides dismissal, to a fine of five hundred Rupees.

Prosecutions under this Act where and how to be instituted.

LXXXI. All prosecutions under this Act shall be instituted, on information laid at the instance of an Emigration Agent, or of a Protector of Emigrants, or of an Officer appointed for the purpose by the Local Government, before a Magistrate of Police, or before the Magistrate of the District, according as they shall be instituted for offences committed within or for offences committed beyond the limits of the Towns of Calcutta, Madras, and Bombay.

Levy of fines.

All fines imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the Officer imposing the fine. When a warrant of distress is issued, the said Officer may order the offender to be detained and kept in safe custody until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his

appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance; but if, before issuing such warrant of distress, it shall appear to the Officer imposing the fine, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Officer whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to the Officer imposing the fine, he shall, by warrant, commit the offender to gaol, there to be imprisoned, with or without hard labor, for any term not exceeding two months where the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four months where the amount shall not exceed one hundred Rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount. The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the order imposing it; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

Any person specially authorized may exercise the powers of the Magistrate of the District under this Act.

LXXXII. It shall be lawful for the Local Government from time to time to authorize any person invested with the powers of a Magistrate as defined in the Code of Criminal Procedure, to perform the duties and exercise the powers by this Act assigned to and conferred on the Magistrate of the District: and every person so authorized shall in all respects for the purposes of this Act be deemed to be included in the words "the Magistrate of the District."

This Act, except certain Sections, not to apply to emigration to the French Colonies.

LXXXIII. So much of Section VIII. of Act XLVI. of 1860, as enacts that a fee not exceeding one Rupee per Emigrant, as may be regulated from time to time by the Local Government, shall be demandable in respect of every license in the said Section mentioned, is hereby repealed. Save as aforesaid, nothing in this Act shall he held to repeal the said Act XLVI. of 1860, or Act VII. of 1862; but Section

XIX. to Section XLI., both included, being provisions for regulating the recruitment of Native laborers which will have effect on the recruitment of laborers for British Colonies, shall, as provided in Section IV. of the said Act XLVI. of 1860, apply to emigration under the said Acts XLVI. of 1860, and VII. of 1862.

Commencement of Act.

LXXXIV. This Act shall come into operation on the First day of July, 1864.

Act and Rules made under it not to apply to certain vessels.

LXXXV. Nothing in this Act or in any Rule to be made by the Governor General of India in Council under Section LXIII., shall apply to any vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's vessels.

SCHEDULE A.

Number and Date of Act, and extent of Repeal.	*Number and Date of Act, and extent of Repeal.*
Act XIV., 1839—The whole Act.	Act XIX., 1856—So much of the Act as is not incorporated in Acts XLIV. of 1860, and VII. of 1862.
Act XV., 1842—The whole Act.	
Act XXI., 1843—The whole Act.	
Act XXI, 1844—The whole Act.	
Act XXV., 1845—The whole Act.	Act XII., 1860—The whole Act.
Act VIII., 1847—The whole Act.	Act XXXIII., 1860—The whole Act.
Act XIII., 1847—The whole Act.	Act XLI., 1860.—The whole Act.
Act IV., 1852—The whole Act.	Act XLIX., 1860—The whole Act.
Act XXIV., 1852—The whole Act.	Act XXII., 1862—The whole Act.
Act XXXI., 1855—The whole Act.	Act VII., 1863—The whole Act.

SCHEDULE B.

Office of the Protector of Emigrants at the Port of

A. B. is hereby licensed under Act XIII. of 1864 of the Governor General of India in Council to be a Recruiter for engaging persons to proceed to for the purpose of laboring for hire.

This license will be in force for one year only from this date.

Dated the day of

(Signed) C. D.,

Protector of Emigrants.

JUDGE OF KONKAN.

ACT No. XIV. OF 1864.

[*Received the assent of the G. G. on the 18th March*, 1864.

Recites that the Joint Judge and Joint Sessions Judge for Konkan were appointed without the previous sanction of the G. G. in Council.

Legalizes the Acts of the Judge of Koukan retrospectively from 25th February, 1863.

Obsolete.

TOLLS ON ROADS AND BRIDGES.

ACT No. XV. OF 1864.

[*Received the assent of the G. G. on the 24th March*, 1864.

1. Substitutes a new Schedule of Rules and Tolls instead of the Schedule of Act VIII., 1851, at the discretion of Government.

2—4. Authorizes imposition of Tolls, and (3) extension of this Act by Local Government; (4) that is, by the officer administering the executive power of Government.

Schedule of Tolls.

Preamble.

Whereas by Act VIII. of 1851 (*for enabling Government to levy Tolls on Public Roads and Bridges*) authority was given for the levy of certain rates of Toll, not exceeding the rates mentioned in the Schedule annexed to that Act; and whereas it is expedient to make certain alterations in respect to the rates in the said Schedule mentioned, it is enacted as follows:

Schedule of Act VIII. of 1851 repealed, and another Schedule substituted.

I. In any place to which this Act shall be extended by the Local Government, the Schedule to the said Act VIII. of 1851 shall be of no effect except as to any proceedings pending at the time at which this Act shall be so extended and except as to any rate of Toll levied theretofore; and all the provisions of the said Act, applicable or referring, to the rates of Toll mentioned in the said Schedule, shall be applicable and refer to the rates of Toll mentioned in the Schedule to this Act annexed, which shall be read with and taken as part of the said Act VIII. of 1851.

Collectors of Tolls may compound for Tolls leviable under Act VIII. of 1851 or this Act.

II. Any person entrusted with the management of the collection of Tolls under Act VIII. of 1851 may in his discretion compound for any period not exceeding one year with any person for a certain sum to be paid by such person for himself or for any vehicle or animal kept by him, in lieu of the rates of toll specified in the Schedule to the said Act VIII. of 1851 or in the Schedule to this Act.

This Act where to have operation.

III. The Local Government may extend this Act to any place in which the said Act VIII. of 1851 is in force; and the Local Government of any place in which the said Act VIII. of 1851 is not in force may extend the said Act VIII. of 1851 and this Act to such place.

"Local Government."

IV. For the purposes of this Act, the words "Local Goverment" shall denote the person authorized by law to administer executive Government in any part of the territories vested in Her Majesty by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India."

SCHEDULE.

	Rs.	A.	P.
On every four-wheeled carriage	2	0	0
On every two-wheeled carriage	1	0	0
On every Ekka	0	4	0
On every hackery on springs	0	2	0
On every cart and hackery not on springs drawn by 8 bullocks, buffaloes, horses, ponies, asses, or mules, if laden	1	8	0
Ditto, if not laden	0	8	0
On every cart and hackery drawn by 6 bullocks, buffaloes, horses, ponies, asses, or mules, if laden ...	0	12	0
Ditto, if not laden	0	6	0
On every cart or hackery drawn by 4 bullocks, buffaloes, horses, ponies, asses, or mules, if laden ...	0	8	0
Ditto, if not laden	0	4	0
On every cart and hackery drawn by 2 bullocks, buffaloes, horses, ponies, asses, or mules, if laden ...	0	4	0
Ditto, if not laden	0	2	0

	Rs.	A.	P.
Buffaloes or bullocks, per head, if laden	0	1	0
Ditto, if not laden	0	0	6
On every elephant	1	8	0
On every camel, if laden	0	8	0
Ditto, if not laden	0	4	0
On every horse, if laden or ridden ...	0	1	6
Ditto, unladen or led	0	0	9
On every tattoo or mule, if laden or ridden... ...	0	0	9
Ditto, unladen or led	0	0	6
On every ass, if laden or ridden	0	0	6
Ditto, unladen or led	0	0	3
On every sheep, or goat, or pig	0	0	1
On every palankeen, dooly, palna, or tonjon—			
with 8 bearers	1	0	0
Ditto ... ... with 6 bearers	0	12	0
Ditto ... ... with 4 bearers	0	8	0
Ditto ... ... with 2 bearers	0	4	0
On every foot passenger	0	0	3

N.B.—Animals drawing any vehicle for which Toll can be demanded are not to be also charged with Toll.

REGISTRATION OF ASSURANCES.

ACT No. XVI. OF 1864.

[*Received the assent of the G. G. on the 24th March*, 1864.

1, 2. Repeals Scheduled Regulations and Acts, except as to Instruments registered under them; and (2) all other Regulations in parts to which this Act shall be extended.

3. Defines the terms, "British India," "Local Government," "Year and Month," "Section," and construes words of "Number and Gender."

4. Authorizes the Governor General in Council, by declaration in the Indian Gazette, to give the Head Officer in Districts under the administration of the Government of India possessed of the powers under this Act.

REGISTRATION ESTABLISHMENT.

5—12. Authorizes Local Government to establish General Register Office and appoint officers; and (6) make Registry Districts; and (7) prescribe limits of Register Office for Presidency Towns, with Sub-Districts; and (8) District Officers, and Deputy Registrars, except in Presidency Towns, as to

which (9) prescribes; and (10) provides for case of absence or vacancy in any Register Office; and (11) salaries and pay to be fixed by Local Government, &c.; and (12) Registrars to have a Seal of Office.

INSTRUMENTS TO BE REGISTERED.

13—16. No deed of gift of immoveable property or lease for more than a year, or conveyance or receipt, &c., to be received in evidence unless registered, if executed after Act comes in operation, except leases in Madras of revenue-paying land; and (14) the stamp affixed to be the criterion of value; and (15) a suit may be instituted to establish right to registration if refused; and (16) the same kind of Instruments for value under 100 Rs. may optionally be registered, also Instruments relating to moveable property, Wills and Authorities to adopt, Decrees, Orders, and Money Deeds, Bonds, Contracts, &c., and all other Obligations.

TIME OF REGISTRATION.

17—20. Twelve months time for registration of Instruments executed before Act; and (18) four months from date of execution afterwards, of Deeds, registration of which is compulsory; and (19) two months, of other Instruments; (20) except Wills and Authorities to adopt, which may be registered at any time.

PLACE OF REGISTRATION.

21—25. Instruments concerning immoveable property to be registered where property is situate; and (22) all other Instruments where executed; and (23) where property is not all in one Sub-District, registration may be in any Sub-District, &c.; and (24) Instruments in language not understood by Deputy Registrar to be forwarded to District Registrar; and (25) if property is situate in more districts than one, registration may be in any one, &c.

26, 27. Registrar General may register any Instrument of which registration is compulsory, without reference to local site of property; but (27) copy to be sent to District Registrar.

28. Directs by whom Instruments are to be presented for registration.

MODE OF REGISTRATION.

29—34. Registrar to satisfy himself by enquiry that the Instrument has been executed rightly, and as to personal title of parties executing; and (30) enter in book names, &c., of parties examined; and (31, 32, 33, 34) are as to summoning witnesses.

35. Instrument with interpretation, &c., not to be registered unless interpretation, &c., be verified.

36, 37. Directs what particulars shall be endorsed on Instrument at time of registration, and (37) how endorsement is to be signed.

38, 39. Registered Instrument to be copied in book, and (39) returned to party with certificate of registration.

40—42. Abstract of every registered Instrument affecting immoveable property to be made and forwarded in duplicate to Deputy Registrar, and (41) one part sent to Registrar General, who (42) shall enter same in a book.

DECREES AFFECTING REGISTERED INSTRUMENTS.

43—45. Where a decree affects the validity or operation of any registered Instrument, a memorandum thereof shall be sent to the Registry Office; and (44) shall be there registered; and (45) the like memorandum to be sent to Registry Office of Decrees concerning immoveable property, and there to be registered.

REGISTRATIONS OF WILLS, CODICILS, AND AUTHORITIES TO ADOPT.

46—50. Applies provisions of Section 28 for registration of the above documents, and (47) directs how such Instrument shall be registered; and (48) how they may be withdrawn; and (49) how they are to be dealt with in case of death of depositor; and (50) authorizes certified copies to be given, and makes such copies evidence of original.

SPECIAL REGISTRATION OF OBLIGATIONS FOR PAYMENT OF MONEY.

51, 52. Provides for Registration of Bonds and other Obligations for payment of money; and (52) provides for their enforcement without suit.

REGISTRATION FEES.

53, 54. Fees to be fixed by Government, and (54) paid into Government Treasury.

REGISTER.

55. As to Books, and the mode of keeping them.

56—59. Registers to be of four specified kinds, and (57) entries to be numbered, and (58) entries to be kept, and (59) in District Offices separate Books to be kept for registration of powers to adopt son.

60. Provides for inspection of registered Instruments.

GENERAL RULES.

61—63. As to control over Deputy Registrar; (62) gives appeal from refusal of Deputy Registrar to Registrar; but (63) not from admitting to registration.

64. Gives Registrar General a general control over all Register offices, &c.

65. Provides for attendance of Registrars at residence of parties, to register, &c.

66. Reasons to be recorded for every refusal to register.

67. Registered Instruments to operate from same date as if not registered, &c.

68. Registered Instruments of specified kind to have priority to Instruments not registered.

69. Provides special mode of registering Instruments on behalf of Government and Public Offices.

70. False declarations under this Act to be punishable under Indian Penal Code, Section 191.

71. Act to come into operation on 1st January, 1865, in three Presidencies, but elsewhere only when extended by order of Government.

Schedule of Repealed Regulations under Acts.

Preamble.

Whereas it is expedient to consolidate and amend the laws relating to the Registration of Assurances, it is enacted as follows:

Repeal of Regulations and Acts.

Laws repealed.

I. The Regulations and Acts and parts of Regulations and Acts set forth in the Schedule annexed to this Act are hereby repealed to the extent mentioned in the said Schedule, except in so far as such Regulations or Acts rescind other Regulations or Acts, and except as regards Instruments duly registered under them or any of them before the date on which this Act shall come into operation.

Repeal of rules relating to the Registration of Assurances in certain Territories.

II. From the date on which this Act shall be extended as hereinafter provided to any part of British India in which the Regulations and Acts mentioned in the Schedule annexed to this Act are not in force, all Rules and Regulations relating to the Registration of Assurances in force in such part of British India shall cease to have effect, except as regards Instruments duly registered under any of the said Rules or Regulations in such part of British India.

Definitions.

III. to XII. Obsolete.

Instruments to be Registered.

Certain Instruments not to be received in evidence in any Civil proceeding unless registered according to provisions of this Act.

XIII. No Instrument being a deed of gift of immoveable property, no lease of immoveable property for any period exceeding one year, no Instrument (other than a deed of gift or lease as aforesaid) which purports or operates to create, declare, transfer, or extinguish any right, title, or interest of the value of one hundred Rupees or upwards in any immoveable property, and no Instrument which acknowledges the receipt or payment of any consideration on account of the creation, declaration, transfer, or extinction of any right, title, or interest as above, of such value as aforesaid, in any immoveable property, shall be received in evidence in any Civil proceeding in any Court, or shall be acted on by any Public Officer, if such Instrument shall have been executed on or after the date on which this Act shall

come into operation, and if the property to which such Instrument relates shall be situate in any part of British India in which this Act is in force, unless the same shall have been registered in the manner and within the time prescribed by this Act. Provided that the provisions of this Section shall not apply to any lease executed between landlord and tenant relative to land in the Presidency of Madras liable to the payment of revenue to Government, but any such lease may be registered under Section XVI., subject to the provisions of Sections XVII. and XIX. [Amended by Act IX., 1865, s. 2.]

Proviso.

XIV. For the purposes of this Act, the value of the right, title, or interest in any immoveable property created, declared, transferred, or extinguished by any Instrument shall be taken to be the value indicated by the Stamp affixed thereto or impressed thereon under Act X. of 1862 (*to consolidate and amend the law relating to Stamp Duties*), or under any other Act for the time being in force for regulating the Stamp Duties.

Mode of determining the value of the right, title, or interest affected by Instruments required to be registered.

XV. Obsolete.

XVI. On and after the date on which this Act shall come into operation, any of the following Instruments executed on or after the said date may be registered under this Act:

Instruments whereof the registration is optional.

1. Any Instrument which purports or operates to create, declare, transfer, or extinguish any right, title, or interest of value less than one hundred Rupees, in any immoveable property.

2. Any Instrument which acknowledges the receipt or payment of any consideration on account of the creation, declaration, transfer, or extinction of any right, title, or interest, of such value as aforesaid, in any such immoveable property.

3. Any lease for a period not exceeding one year.

4. Any Instrument which purports or operates to create, declare, transfer, or extinguish any right, title, or interest in any moveable property.

5. Any Will, Codicil, or Authority to adopt a son.

6. Any decree or order of Court or private award of arbitration.

7. Any Deed, Bond, Contract, or other Obligation.

TIME OF REGISTRATION.

What Instruments not to be accepted unless presented for registration within twelve months after the coming into operation of this Act.

XVII. No Instrument of the descriptions mentioned in Sections XIII. and XVI. (other than a Will, Codicil to a Will, or authority to adopt a son), which shall have been executed before the date on which this Act shall come into operation, shall be accepted for registration unless such Instrument be presented for registration within twelve months from such date.

What Instruments not to be accepted unless presented for registration within four months after execution.

XVIII. No Instrument of the descriptions mentioned in Section XIII., which shall have been executed after the date on which this Act shall come into operation, shall be accepted for registration unless presented for that purpose to the proper Officer within four months from the date of the execution thereof.

What Instruments not to be accepted unless presented for registration within two months after execution.

XIX. No Instrument of any of the descriptions mentioned in Section XVI. (other than a Will, Codicil to a Will, or authority to adopt a son), which shall be executed after the date on which this Act shall come into operation, shall be accepted for registration unless presented within two months from the date of the execution thereof.

What Instruments may be registered at any time.

XX. Any Will, Codicil to a Will, or Authority to adopt a son may at any time be registered in the manner hereinafter provided, by the person making such Will or Codicil, or giving such Authority.

PLACE OF REGISTRATION.

In what Office certain Instruments to be presented for registration.

XXI. Save as in this Act otherwise provided, every Instrument which purports or operates to create, declare, transfer, or extinguish any right, title, or interest in any immoveable property, and any Instrument acknowledging the receipt or payment of any consideration on account of the creation, declaration, transfer, or extinction of any right, title, or interest in any immoveable property, or any lease, shall be presented for registration in the Office of the Deputy Registrar within whose Sub-District the property is situate.

XXII. Every Instrument other than an Instrument of the nature specified in the last preceding Section, shall be presented for registration in the Office of the Deputy Registrar within whose jurisdiction such Instrument is executed, or at any Registry Office under the same Local Government, at which all the parties executing such Instrument shall desire the same to be registered.

In what Officer other Instruments to be presented.

XXIII. Every Instrument affecting immoveable property the whole of which, although situate in one District, is not situate in one Sub-District, may be presented for registration to any Deputy Registrar within whose Sub-District any part of such property is situate. It shall be the duty of such Deputy Registrar, after registering the Instrument, forthwith to cause to be made and to forward a copy thereof, endorsed in the manner provided in Section XXV., to the District Registrar to whom he is subordinate, who shall register the same, and forward a copy of such Instrument and of the endorsement aforesaid, to every Deputy Registrar in his District in whose Sub-District any part of such property is situate, other than the Deputy Registrar in whose Office the Instrument shall have been originally registered, and every Deputy Registrar who shall receive such copy shall forthwith register the same.

To what Officer Instruments affecting immoveable property situate in more than one Sub-District to be presented for registration.

XXIV. Obsolete.

XXV. Repealed by Act IX., 1865, s. 3, and obsolete.

XXVI. It shall be lawful for the Registrar General in his discretion to receive and register any Instrument of the nature specified in Section XXI. which may be presented at his Office for registration, without reference to the situation of the property to which the Instrument relates. In registering any Instrument under this Section. the Registrar General shall follow the mode of registration hereinafter prescribed for the registration of Instruments presented in the first instance to a District Registrar or a Deputy Registrar.

Registration by Registrar General.

XXVII. It shall be the duty of the Register General on any such Instrument being registered in his Office under the last preceding Section, to cause to be made and forwarded to every

Proceedings in case of registration by Registrar General.

District Registrar within the local limit of whose jurisdiction any part of the property to which the Instrument relates is situated, a copy of such Instrument endorsed with an attestation stating the date on which it was registered and the number in his Register Book: and the District Registrar receiving such copy shall register the same as if it had been presented to him in the first instance, and shall forward a copy thereof and of the endorsement aforesaid to the Deputy Registrar of each Sub-District within his jurisdiction in which any part of such property is situate, and every Deputy Registrar who shall receive such copy shall register the same.

By whom Instruments, with certain exceptions, are to be presented for registration.

XXVIII. Every Instrument to be registered under this Act, not being a Will, Codicil to a Will, or an Authority to adopt a son, shall be presented at the Office in which such Instrument is to be registered by all the parties executing the same, or by the heirs, representatives, or assigns of such parties, or by the authorized agents of such parties, or of their heirs, representatives, or assigns under a power of attorney special or general. But no such power of attorney shall be recognized for the purposes of this act unless it shall have been executed in the presence of, and duly attested by the District Registrar or Deputy Registrar within the local limits of whose jurisdiction the person executing the same resides, if he reside in any part of British India subject to the operation of this Act, or if he reside in a part of British India not subject to the operation of this Act, unless it shall have been executed in the presence of, and been duly attested by, the Officer presiding over the principal Court of original Civil jurisdiction within the local limits of whose jurisdiction the person executing the same resides. If the person executing such power of attorney do not reside within any part of British India, it shall not be recognized for the purposes of this Act unless it shall have been executed in the presence of, and duly attested by, an Officer of the British Government, or by a Notary Public where there is such a functionary. The provisions contained in this Section relating to the execution of powers of attorney in the presence of the District Registrar or Deputy Registrar, shall not apply in the case of a Native woman of a rank or description, which according to the customs

of the country would render it improper to require her personally to attend at the Office of the District Registrar or Deputy Registrar. In the case of any woman of the rank or description above mentioned, the District Registrar or Deputy Registrar, if satisfied that the power of attorney is the free and voluntary act of the woman by whom it purports to have been made, may attest the same without requiring her personal attendance at his Office. For the purpose of satisfying himself on this point, the District Registrar or Deputy Registrar may proceed or depute some trustworthy person to the residence of the woman to take her examination in the mode prescribed for taking the evidence of Native females of rank. [Act IX., 1865, s. 5, gives relief against this section.]

MODE OF REGISTRATION.

XXIX. to XXXV. Obsolete.

Particulars to be endorsed on Instrument admitted to registration.

XXXVI. On every Instrument admitted to registration there shall be endorsed the following particulars, that is to say:—

1. The date and hour of presentment.

2. The names in full of the parties executing the Instrument; and if it shall have been presented by the heir, representative, or assign, or by the agent of any party, the name of such heir, representative, assign or agent.

3. The name and address in full of every person whose evidence may have been taken under any of the provisions of this Act.

4. Any payment of money or delivery of goods made in the presence of the District Registrar or Deputy Registrar.

Endorsement by whom to be signed and how to be certified.

XXXVII. The endorsement shall be signed by every party executing the Instrument, or by his heir, representative, or assign, or by his agent, and shall be certified by the seal and signature of the District Registrar or Deputy Registrar. The Instrument thus endorsed shall be *primâ facie* proof on the production thereof in any Court that such Instrument has been duly registered in the manner provided in this Act. Provided that it shall be competent to the Court to require further evidence of such registration if it shall see sufficient cause for doing so.

XXXVIII. Every Instrument admitted to registration and endorsed as hereinbefore provided, shall be copied in its appropriate book according to the order of its presentation, and shall be numbered accordingly.

Registered Instrument to be copied and numbered.

XXXIX. After the provisions of Section XXXVI., XXXVII., and XXXVIII. shall have been complied with, the Instrument shall be returned to the party who shall have presented the same for registration with a further endorsement inscribed thereon and certified as above, containing the number and page of the book in which the copy and the registration of the Instrument shall have been made.

And returned with a further endorsement.

XL. to XLII. Obsolete.

DECREES AFFECTING REGISTERED INSTRUMENTS.

XLIII. When any Civil Court shall by a decree or order declare any Instrument relating to immoveable property which shall have been registered under this Act to be invalid, or when any Civil Court shall pass a decree or order affecting the validity or otherwise of any such Instrument, and such last-mentioned decree or order shall create, declare, transfer, limit, or extinguish any right, title, or interest under such Instrument in the immoveable property to which it relates, such Court shall cause a Memorandum of the decree or order to be sent to the Office in which such Instrument shall have been originally registered.

In what cases Memorandum of decree affecting certain registered Instruments to be sent to the Office in which such Instrument shall have been registered.

XLIV. Whenever any Memorandum is received under the last preceding Section, a transcript thereof shall immediately be made in the margin of the part of the book in which there is any register of the Instrument affected by such Memorandum; and the District Registrar or Deputy Registrar shall forthwith transmit a copy of such Memorandum to the Registrar General, and to every District Registrar and every Deputy Registrar in whose office the said Instrument or any abstract thereof is registered.

Proceedings on receipt of such Memorandum.

XLV. When any Civil Court shall by a decree or order create, declare, transfer, limit or extinguish any right, title, or interest of any person in

To what Registrars Memorandum of decrees

affecting immoveable property to be sent.

any immoveable property situate in any part of British India in which this Act is for the time being in force, such Court shall cause a Memorandum of the said decree or order to be sent to every District Registrar and every Deputy Registrar within the local limits of whose jurisdiction such immoveable property or any part thereof is situate. Every such Memorandum received by a District Registrar or Deputy Registrar shall be entered by him in a book to be kept for the registration of decrees and orders: and a copy of such Memorandum shall be sent to the Registrar General.

REGISTRATION OF WILLS, CODICILS, AND AUTHORITIES TO ADOPT.

Mode of presenting for registration Wills, Codicils, and Instruments giving authority to adopt.

XLVI. Any person wishing to register his Will, a Codicil to his Will, or any Instrument giving authority to adopt a son after his decease, shall either personally or by a duly authorized agent deliver such will or Codicil, or Instrument, in a sealed cover superscribed with the name of the depositor and the nature of the Instrument, to a District Registrar who shall, if the Will, Codicil or Instrument be presented in person, satisfy himself of the identity of the person presenting it, or if the Will, Codicil, or Instrument be presented by an agent, shall satisfy himself of the authority of such agent as provided in Section XXVIII.

Such documents how to be entered.

XLVII. If satisfied as above, the District Registrar shall enter the receipt of every sealed cover delivered to him under the last preceding Section in the Register of Deposits of Wills, Codicils, and Instruments giving authority to adopt, transcribing therein the superscription on such sealed cover, and noting in the Register and on the sealed cover the year, month, day, and hour of such receipt, together with the name of the depositor, and the name of each of the persons testifying to the identity of such depositor, and the inscription so far as it is legible on the seal of the depositor. The District Registrar shall then place the sealed cover in a fireproof box to be supplied by Government for that purpose.

Withdrawal of such documents.

XLVIII. If the depositor of any such sealed cover shall wish to withdraw the same, it shall be lawful for him to apply by petition to the Principal Court of Original Civil Jurisdiction having jurisdiction where the sealed cover was deposited, for an order that the same be given up to him. If the Court shall be satisfied as to the identity with the depositor of the person applying for such an order, it may, if it shall see fit, make such an order as applied for, and the District Registrar in whose Office the sealed cover was deposited shall deliver up the same in obedience to the order.

Proceedings on death of depositor.

XLIX. If on the death of the depositor of a sealed cover under Section XLVI., application be made to the District Registrar in whose Office the said sealed cover was deposited to open the same, the District Registrar, after satisfying himself that the depositor is dead, shall, in the presence of the person making such application, open the sealed cover, and shall enter a copy of the contents thereof, to be made at the expense of the applicant, in a Register of Wills, Codicils, and Instruments giving authority to adopt a son.

Re-deposit of such documents.

When such copy shall have been entered, the District Registrar shall re-deposit the original Will, Codicil, or Instrument, until required to produce the same in a Court of Justice.

Copies of Wills re-deposited to be furnished on payment of fees.

L. The District Registrar shall furnish to any applicant who shall pay to him the fees payable under this Act in respect thereof, a copy authenticated by his signature, of any Will re-deposited under the last preceding Section. And any copy certified by the District Registrar to be a true copy, shall be evidence of the contents of the Will, Codicil, or Instrument giving authority to adopt, of which it purports to be such copy.

Special Registration of Obligations for Payment of Money.

Parties may have agreement recorded, that amount secured by a written obligation shall be recovered without suit.

LI. Whenever the parties to a bond or other written obligation for the payment of money, shall at the time of registering the same under the provisions of this Act apply to the District Registrar or Deputy Registrar to record

their agreement, that in event of the bond or other written obligation as aforesaid not being satisfied within the time stipulated the amount may be recovered as hereinafter provided without a suit, it shall be the duty of the District Registrar or Deputy Registrar, after making such enquiries as he may think proper, to record such agreement at the foot of the endorsement required by Section XXXVI., and such record shall be signed by the District Registrar or Deputy Registrar, and by the parties to the bond or other written obligation as aforesaid.

Obligation for the payment of money registered with such agreement may be enforced without suit.

LII. A bond or other obligation for the payment of money registered with such agreement as in the last preceding Section mentioned, may be enforced without a suit by any Court which would have had jurisdiction to try a suit on such bond or other obligation for the recovery of the amount, provided that the application for the enforcement of the same be made within the period of one year from the date on which the amount became payable. The bond or other obligation as aforesaid shall be enforced as a decree in a suit under the rules applicable to the execution of decrees in the Court in which the application for enforcement is made, but subject to any provisions contained in any law for the time being in force, in relation to the enforcement, without a suit of bonds or other obligations for the payment of money registered with such agreement as aforesaid. The application for the enforcement of a bond or other obligation for the payment of money under this Section shall be written on a Stamp paper of one-fourth the value prescribed for a petition of plaint, in a suit to recover the same amount, under the provisions of Article 11, Schedule B., Act X. of 1862 (*to consolidate and amend the law relating to Stamp Duties*), or any other law for the time being in force for regulating Stamp Duties.

REGISTRATION FEES.

LIII., LIV. Superseded.

REGISTERS.

Books.

LV. The Local Government shall provide for the Office of every Registrar General, District Registrar, and Deputy Registrar, such books as may

be necessary for the purposes of this Act. The books so provided shall contain such printed forms as shall from time to time be prescribed by the Registrar General, with the sanction of the Local Government, for the entries to be made therein and for the indexes to such books, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title page by the Officer by whom such books shall be supplied. The Local Government shall further supply the Office of every District Registrar with a fire-proof box.

Forms.

Fire-proof boxes.

LVI. In every General Register Office, and in the Office of every District Registrar and Deputy Registrar, four Books shall be kept, which shall be entitled—

Four distinct Books.

1. Register of absolute transfers of immoveable property.

2. Register of other transfers of immoveable property.

3. Register of decrees and orders of Court and of awards of arbitrations.

4. General Register of all other Instruments for the registration of which provision is made in this Act, and the entry of which is not required to be made in any other Register.

LVII. All entries made in such books shall be numbered in a consecutive numerical series which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year. Whenever any Instrument for the registration of which application may be made, refers to immoveable and also to moveable property it shall be entered in Book No. 4 and also in Book No. 1, 2, or 3, as the case may be.

In which book certain Instruments to be registered.

LVIII. Two Indexes shall be prepared for each Register, one containing the name of every party to every Instrument registered, and the other in the case of immoveable Property containing the name of the village or place where the property is situate, together with a description of the property and its name, and such other particulars and in such form as the Registrar General shall from time to time prescribe under Section LXIV.

Indexes.

LIX. Every District Registrar shall, in addition to the books prescribed in Section LVI. of this Act, keep two books to be entitled—

Registers of Wills, &c.

Register of Deposits of Wills, and Codicils to Wills, and Instruments giving authority to adopt a son, as provided in Section XLVII.

Register of Wills, Codicils, and Instruments giving authority to adopt a son, as provided in Section XLIX.

LX. Subject to the previous payment of such fees as may be payable in that behalf, the Registers in the General Register Offices and in the Offices of all District Registrars and Deputy Registrars shall be at all times open to inspection by any person applying to inspect the same, and certified copies of any entry in such Registers shall be given to all persons applying for such copies. Provided that the only Registers to be inspected shall be the Registers No. 1, 2, and 3, specified in Section LVI., and the Register specified in Section XLIX.

Inspection of Registers and copies of entries.

GENERAL RULES.

LXI. to LXVI. Superseded.

LXVII. A registered Instrument shall operate from the time from which it would have commenced to operate if no registration had been required or made, and not from the time of its registration.

Time from which registered Instrument shall operate.

LXVIII. Every Instrument of the descriptions mentioned in Clauses 1 and 2 of Section XVI. shall, if duly registered, have priority to any other Instrument relating to the same property, whether such other Instrument be of the same nature as the registered Instrument or not.

Priority of certain registered Instruments.

LXIX. It shall not be necessary for any Officer of Government to appear in person for the purpose of registering any Instrument but when any Instrument is executed by, or on behalf of Government, or by any Court, Board, Commission, or Public Office on behalf of Government, the District Registrar or Deputy Registrar to whom such Instrument is presented for registration, may if he deem it necessary refer to the Head

Registry of Instruments executed by, or on behalf of, Government.

Officer of the Court, Board, Commission, or Office on whose behalf such Instrument was executed, for information respecting the same, and, on being satisfied of the execution thereof, shall register the Instrument.

LXX. Superseded.

LXXI. This Act shall come into operation on the First day of January, 1865, in the Presidencies of Bengal, Madras, and Bombay. This Act shall not come into operation in any other part of British India until it shall be extended thereto by an order of the Governor General of India in Council, or by an order of the Local Government, to be notified in the Official Gazette.

Commencement of Act.

SCHEDULE OF REGULATIONS AND ACTS REPEALED.

Number, Date, and extent of Repeal.	*Number, Date, and extent of Repeal.*
BENGAL.	MADRAS.
Regulation XXXVI., 1793—The whole Regulation.	Regulation XVII., 1802—The whole Regulation.
Regulation XXVIII., 1795—The whole Regulation.	Regulation XI., 1831—The whole Regulation.
Regulation XVII., 1803—The whole Regulation.	BOMBAY.
Regulation VIII., 1805—Section XVII., so far as it relates to Regulation XVII., 1803.	Regulation IX., 1827—The whole Regulation.
Regulation XII., 1805—Section XXXII.	Regulation XIII., 1828—The whole Regulation.
Regulation XX., 1812—The whole Regulation.	Act XXX., 1838—The whole Act.
Regulation IV., 1824—The whole Regulation.	Act I., 1843—The whole Act.
Regulation VII., 1832—Section IV.	Act XIX., 1843—The whole Act.
	Act IV., 1845—The whole Act.
	Act XVIII., 1847—The whole Act.
	Act XI, 1851—The whole Act.
	Act XXIX., 1856—The whole Act
	Act III., 1859—Sections IX. and X.

Amended by Act IX., 1865. Repealed by Act XX., 1866, s. 3. Those Sections which remain of use for reference as affecting titles to property, &c., are retained, the rest, not being of that use, and being superseded, are suppressed.

OFFICIAL TRUSTEE.

ACT No. XVII. OF 1864.

[*Received the assent of the G. G. on the 24th March*, 1864.

1. Interprets the words "High Court," "Chief Justice," "Person," and words of Number and Gender.

2. Repeals as regards the future Act XVII. of 1843.

3. Official Trustee under Act XVII., 1843, save as regards remuneration, to execute office under this Act.

4. Gives name of office to Official Trustee.

5, 6. Vests the appointment, suspension, and removal of Official Trustee in Chief Justice of the Presidency; and (6) makes the Administrator General eligible for office. Official Trustee to give security.

7. Empowers Chief Justice to give leave of absence to Official Trustee, and appoint an officiating Official Trustee, who is to give security.

8—11. Official Trustee may be made Trustee by Deed, and Trusts to vest in him and his successors: with (9) remuneration to be agreed by the Deed; and (10) may also be appointed on petition of the existing Trustees, or of *cestui que trusts* in specified cases; and (11) establishes the rates of remuneration.

12. Official Trustee to defray expenses of office establishment, and of management, collection and distribution, but to charge costs of litigation.

13. Official Trustee to be sole Trustee.

14. Directs in what way Trust Funds shall be invested.

15. Orders of High Court to be made on Petition, unless suit directed to be instituted.

16. Trust estate may be re-transferred to private Trustee by order of Court.

17. Orders on Official Trustee to be upon him by his name of office, and on his death, &c., all estates, &c., to vest in his successor.

18. All actions, &c., by or against to be in his official character.

19. Directs what accounts the Official Trustee shall keep.

20, 21. Empowers Chief Justice to make, &c., General rules and orders for safe custody of Trust Funds, &c., (21) to be published in Official Gazette.

22. Official Trustee to make annually a schedule of receipts, disbursements, &c., as directed by Chief Justice, which shall be filed as records of the High Court, &c.

23—25. Empowers Chief Justice to appoint Auditors; (24) to examine schedules, &c.; and (25) gives powers to Auditors.

26. Costs of schedules and audits to be rateably charged against all the estates.

27—29. Auditors to report to Chief Justice as to irregularity in accounts, &c., and (28) Chief Justice may refer report to Advocate General, who may proceed against defaulter, &c., and (29) Advocate General's costs to be charged to defaulter or against estate generally.

30, 31. Orders of High Court to have effect of decrees; and (31) may be applied for by any person beneficially interested.

32. Legacy to infant or lunatic may be paid by executors to Official Trustee.

Preamble.

Whereas it is expedient to amend the law relating to Official Trustees, and to constitute an Office of Official Trustee, it is enacted as follows:

Interpretation.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them unless there be something in the context repugnant to such construction, that is to say:—

"High Court."

The expression "High Court" shall mean Her Majesty's High Courts of Judicature at Fort William in Bengal, Fort St. George, and Bombay respectively in the exercise of their original Civil jurisdiction.

"Chief Justice."

The expression "Chief Justice" shall mean the Chief Justice or Acting Chief Justice for the time being of any of the said High Courts.

"Person."

The word "person" shall include a corporation.

Number.

Words importing the singular number shall include the plural, and the words importing the plural number shall include the singular.

Gender.

Words importing the masculine gender shall include females.

Act XVII. of 1843 repealed.

II. Act XVII. of 1843 *(for the appointment of Official Trustees in certain cases)* is hereby repealed except as to any proceedings pending or any Trusts now vested in an Official Trustee under it, and except in so far as that Act is made applicable to the Settlement of Prince of Wales' Island, Singapore, and Malacca, by Act XIV. of 1852 *(for extending the provisions of Acts XXIV. of* 1841 *and XVII. of* 1843 *to the Straits' Settlement)*.

Official Trustee under Act XVII. of 1843 to act as if appointed under this Act, save as regards remuneration.

III. Every Official Trustee appointed under the said Act XVII. of 1843 shall, save as regards the remuneration to be received by him, hold and execute the Trusts of which he is Trustee in all respects as if he were an Official Trustee appointed under this Act.

An Official Trustee to be appointed in each Presidency.

IV. In each of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, there shall be an Official Trustee. The said Official Trustee shall be called the Official Trustee of Bengal, the Official Trustee of Madras, and the Official Trustee of Bombay respectively.

Appointment, suspension and removal of Official Trustees.

V. Every Official Trustee appointed under this Act shall be appointed and may be suspended or removed from his Office by the authorities hereinafter named, that is to say—

The Official Trustee of Bengal by the Chief Justice of Her Majesty's High Court of Judicature at Fort William in Bengal.

The Official Trustee of Madras by the Chief Justice of Her Majesty's High Court of Judicature at Fort St. George.

The Official Trustee of Bombay by the Chief Justice of Her Majesty's High Court of Judicature at Bombay.

Administrator General may be appointed Official Trustee.

VI. The Administrator General or Officiating Administrator General for the time being of any of the said Presidencies shall be eligible for the Office of Official Trustee of that Presidency. Every Official Trustee appointed under this Act shall give security for the due execution of the duties of his Office in such manner and to such amount as the Chief Justice by whom he is appointed shall direct.

Security to be given by Official Trustee.

Leave of absence of Official Trustee, and appointment of a person to officiate for him.

VII. It shall be lawful for the Chief Justice of the High Court at any of the Presidencies, from time to time, to grant leave of absence to the Official Trustee of that Presidency, but subject always to such and the like rules as may be for the time being in force as to leave of absence of the Officers attached to such High Court. Whenever any Official Trustee shall obtain leave of absence, it shall be lawful for the Chief Justice to appoint some person to officiate as Official Trustee, and such person while so officiating shall be subject to the same conditions and be bound by the same responsibilities as the Official Trustee, and he shall be deemed to be the Official Trustee for the time being under this Act, and shall be liable to give security for the due execution of the duties of his Office in like manner as if he had been appointed Official Trustee.

VIII. If any person shall be about to grant, assign, or settle any property moveable or immoveable, of what nature or kind soever, upon or subject to any Trust, whether for a charitable purpose or otherwise, it shall be lawful for such person, with the consent of the Official Trustee, to appoint him, by the deed creating the Trust, to be the Trustee of such settlement; and upon such appointment the property so granted, assigned, or settled shall vest in such Officer and his successors in Office, and shall be held by him and them upon the Trust declared and contained in the said deed. Provided always that the consent of the Official Trustee shall be recited in the said deed, and that the deed shall be duly executed by the Official Trustee: provided also that no Trust for any religious purpose shall ever be held by the Official Trustee, under this or under any other section of this Act.

Official Trustee may, with his consent, be appointed Trustee of a settlement by grantor, &c.

IX. Every Official Trustee appointed Trustee of any property under the last preceding Section, shall be entitled to receive by way of remuneration in that behalf such sum or sums only as he shall by the deed of settlement be declared to be entitled to receive.

Official Trustee appointed under last preceding Section to receive only the remuneration specified in the deed.

X. If any property is subject to a Trust, whether for a charitable purpose or otherwise, and there shall be no Trustee willing to act or capable of acting in the Trusts thereof, who is within the local limits of the ordinary or extraordinary original Civil jurisdiction of the High Court, or if property is subject to a Trust, and all the Trustees, or the surviving or continuing Trustee and all the persons beneficially interested in the said Trust, shall be desirous that the Official Trustee shall be appointed in the room of such Trustees or Trustee, then and in any such case it shall be lawful for the High Court on petition, and with the consent of the Official Trustee, to appoint the Official Trustee to be the Trustee of such property: and upon such appointment such property shall vest in the Official Trustee and his successors in Office, and shall be held by him and them upon the same Trusts as the same were held previous to such appointment.

Under what other circumstances Official Trustee may be appointed Trustee of any property.

XI. The Official Trustee shall be entitled by way of remuneration, in respect of all Trust property transferred to him under the last preceding Section, to a commission the rate of which shall be as follows, that is to say:—

Rate of commission under last preceding Section.

On all capital moneys received by him, a commission of one half per cent. on receiving the same.

On all capital moneys invested by him, a commission of one half per cent. on investing the same.

On all sums received by him by way of interest or dividends in respect of moneys invested, a commission of three quarters per cent.

On all rents collected by him, a commission of two and a half per cent.

XII. The Official Trustee shall defray all the expenses of the establishment necessary for his Office, including the provision of Office accommodation, together with all other charges to which the said Office shall be subject, except those for which express provision is made by this Act, and except those costs of litigation and the like which a Trustee would, under ordinary circumstances, be entitled to pay for out of the Trust moneys in his hand. The commission to which the Official Trustee shall be entitled, is intended to cover all the expenses and risk and responsibility of management, collection and distribution.

What expenses, &c., commission to cover.

XIII. It shall in no case be lawful to appoint the Official Trustee to be a Trustee along with any other person; but the Official Trustee shall always be sole Trustee.

In all cases Official Trustee to be sole Trustee.

XIV. The Official Trustee shall cause all capital moneys received by him to be invested in Government securities, or otherwise as the Court shall direct: and if in any case the Trust funds or any part of them shall at the time of their vesting in the Official Trustee be invested otherwise than as provided in the deed or Will creating the Trust or than as ordered by the Court, it shall be the duty of the Official Trustee, as soon as he reasonably can, to realize the funds so improperly invested, and to invest the same in Government securities or otherwise as the Court shall direct.

In what securities Official Trustee to invest Trust money.

High Court may make orders respecting Trust property vested in Official Trustee.

XV. The High Court may make any such orders as shall seem to it necessary respecting any Trust property vested in the Official Trustee, or the interest or produce thereof. All such orders shall be made on petition, unless the Court shall direct a suit to be instituted.

Re-transfer of Trust property to original, or transfer to other Trustee.

XVI. Nothing in this Act shall prevent the re-transfer of any Trust property which may have become vested in the Official Trustee, to the original or any subsequently appointed Trustee, or to such person as the Court shall direct, unless otherwise provided by the deed or Will creating the trust.

Order of appointment of Official Trustee.

XVII. All orders which shall be made appointing any Official Trustee to act as Trustee in virtue of his Office, shall appoint him by his name of Office and shall authorize the Official Trustee for the time being of the same Presidency to act as Official Trustee of the property to which such order shall relate; and all property and interest which at the time of the death, resignation, or removal from Office of any Official Trustee shall be vested in him by virtue of such order, shall upon such death, resignation, or removal cease to be vested in him, and shall vest in his successor in Office immediately upon his appointment thereto, and all books, papers, and documents kept by such Official Trustee by virtue of his Office shall be transferred to and vested in his successor in Office.

On death, &c., of Official Trustee, property to vest in his successor.

Official Trustee to sue or be sued by his name of Office. Suit not to abate by death, &c.

XVIII. All actions, suits, or other proceedings which shall be commenced by or against any Official Trustee in his official character, may be brought by or against him by his name of Office, and no suit, action, or other proceeding already commenced or which shall be commenced by or against any person as Official Trustee, either alone or jointly with any other person, shall abate by reason of the death, resignation or removal from Office of any such Official Trustee, but the same may by order of the Court and upon such terms as to the services of notices or otherwise as the Court may direct, be continued against his successor immediately upon his appointment, in the same manner as if no such

death, resignation, or removal had occurred. Provided that nothing herein contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the action or suit against him, or shall release an Official Trustee who has resigned or been removed from his Office, or the heirs, executors, administrators, or representatives of a deceased Official Trustee, from being liable for any such costs.

Proviso.

Official Trustee to keep a separate account of each Trust, to be open to the inspection of the Chief Justice, and of any person authorized by him to demand inspection.

XIX. Every Official Trustee appointed under this Act shall enter into books, to be kept by him for that purpose, separate and distinct accounts of each Trust of which he is the Trustee, and of all such sums of money and securities for money, goods, and things, as shall come to his hands, or to the hands of any person employed by him, or in trust for him, under this Act, and likewise of all payments made by him on account of such Trust, and of all debts due by or to the same, specifying the dates of such receipts and payments respectively, which said books shall be kept in the Official Trustee's Office, and shall be at all times open for the inspection of the Chief Justice and of any person authorized by him to demand inspection thereof.

Chief Justice may make and alter rules and orders for custody of Trust Funds, &c.

XX. The Chief Justice shall have power, from time to time, to make and alter any general rules and orders consistently with the provisions of this Act, for the safe custody of the Trust funds and securities which shall come to the hands or possession of the Official Trustee, and for the remittance to Europe or elsewhere of all sums of money which shall be payable or belong to persons resident in Europe or elsewhere, or in other cases where such remittances shall be required, and generally for the guidance and government of the Official Trustee in the discharge of his duties; and may by such rules and orders, amongst other things, direct what books, accounts, and statements in addition to those mentioned in this Act, shall be kept by the Official Trustee, and in what form the same shall be kept, and what entries the same shall contain, and where the same shall be kept, and where and how the funds and securities and other the property belonging

to the Trust of which the Official Trustee is the Trustee shall be kept or invested or deposited, and how any remittances thereof shall be made.

Publication of orders, &c.

XXI. Such orders shall be published in the Official Gazette, and it shall be the duty of the several Official Trustees to obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

Official Trustee to furnish Annual Schedules which shall be filed in the High Court.

XXII. The Official Trustee of each of the said Presidencies shall once in every year, that is to say, on the First day of March, or on such other day as the Chief Justice shall direct, deliver to the Chief Justice a true Schedule showing the gross amount of all sums of money received or paid by him on account of each Trust of which he is the Trustee, and the balances during the year ending on the Thirty-first day of December next before the day of delivering such Schedule, and a true list of all securities received on account of each of the said Trusts during the same period; and also a true Schedule of all Trusts which shall have come to an end or of which the Official Trustee shall have ceased to be the Trustee and the property subject to which shall have been paid or made over to the persons entitled to the same or to new Trustees during the same period, specifying the nature and amount or value of such property and the persons to whom paid or made over. The Chief Justice shall cause the said Schedules to be filed as record in the High Court; but it shall not be lawful for any person to inspect the same or to make copies thereof or of any part thereof, except on an order granted by the Chief Justice permitting him so to do.

Inspection of Schedules so filed.

Chief Justice to appoint Auditors.

XXIII. The Chief Justice shall from time to time appoint an Auditor or Auditors to examine the Accounts of the Official Trustee at the time of the delivery of the said Schedules and also at any other time when the Chief Justice shall think fit.

Auditors to examine Schedules and accounts of Official Trustee and to report to Chief Justice.

XXIV. The Auditor or Auditors shall examine the Schedules and accounts, and report to the Chief Justice whether they contain a full and true account of every thing which

ought to be inserted therein, and whether the books which by this Act are, or which by any such general rules and orders as aforesaid, shall be directed to be kept by the Official Trustee, have been duly and regularly kept, and whether the Trust funds and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or which shall be prescribed by any such rules and orders to be made as aforesaid.

Auditors to have power to summon witnesses and to call for books, &c.

XXV. Every Auditor shall have power to summon as well the Official Trustee as any other person or persons whose presence he may think necessary, to attend him from time to time; and to examine the Official Trustee or other party or parties, if he shall think fit, on oath or solemn affirmation, to be by him administered; and to call for all books, papers, vouchers, and documents, which shall appear to him to be necessary for the purposes of the said reference; and if the Official Trustee or other person or persons when summoned shall refuse, or, without reasonable cause, neglect to attend or to produce any book, paper, voucher, or document required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to be examined, the Auditor or Auditors shall certify such neglect or refusal in writing to the High Court; and every person so refusing or neglecting shall thereupon be punishable, in like manner as if such refusal or neglect had been in contempt of the said High Court.

Penalty for refusal or neglect to attend, &c., to produce books, &c.

Cost of preparing Schedules, &c., how to be paid.

XXVI. The costs and expenses of preparing the said Schedules and accounts and of every such reference and examination as aforesaid, shall be defrayed by all the Trust estates to which such Schedules or accounts shall relate, which costs and expenses, and the portion thereof to be contributed by each of the said Trust estates, shall be ascertained and settled by the Auditor or Auditors, subject to the approval of the Chief Justice, and shall be paid out of the said estates accordingly by the Official Trustee.

Matters to be reported by Auditors.

XXVII. If upon any such reference and examination the Auditor or Auditors shall see reason to believe that the said Schedules do not

contain a true and correct account of the matters therein contained, or which ought to be therein contained, or that the Trust funds and securities have not been duly kept and invested or deposited in the manner directed by this Act, or which shall be directed by any such rules and orders as aforesaid, or that the Official Trustee has failed to comply with the provisions and directions of this Act, or of any such rules and orders, he or they shall report accordingly to the Chief Justice.

Proceedings upon such report.

XXVIII. The Chief Justice may refer every such report as last aforesaid to the consideration of the Advocate General for the Presidency, who shall thereupon, if he shall think fit, proceed summarily against the defaulter or his personal representative in the High Court by petition for an account, or to compel obedience to this Act or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the Trust estates then or formerly under the charge of such defaulter; and the Court shall have power, upon any such petition, to compel the attendance in Court of the defendant or defendants, and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court shall think fit, and to make and enforce such order or orders as the Court shall think just.

Costs upon such proceedings, &c., how to be defrayed.

XXIX. The costs, including those of the Advocate General, and of the reference to him, if the same shall be directed by the Court to be paid, shall be defrayed either by the defendant or defendants, or out of the Trust estates rateably as the said Court shall direct; and whenever any costs shall be recovered from the defendant or defendants, the same shall be repaid to the estates by which the same shall have been in the first instance contributed, and the Court shall have power to order the Official Trustee or other person or persons, defendants, to receive his or her costs out of the said estates, if it shall think fit.

Orders of the High Court to have same effect and to be executed in the same manner as decrees.

XXX. Any orders which shall be made by any of the said High Courts shall have the same effect and be executed in the same manner as decrees.

Who may apply for order under this Act.

XXXI. Any order under this Act may be made on the application of any person beneficially interested in any Trust property, or of any Trustee thereof, whether under disability or not.

Executor or Administrator may, by leave of the High Court, pay to Official Trustee, legacy, share, &c., to which an infant or lunatic is entitled.

XXXII. If any infant or lunatic shall be entitled to any gift or legacy or residue or share thereof, it shall be lawful for the Executor or Administrator by whom such legacy, residue, or share may be payable or transferable, or the party by whom such gift may be made, or any Trustee of such gift, legacy, residue, or share, to pay or transfer the same to the Official Trustee appointed under this Act; provided that the leave of the High Court to make such payment or transfer shall be first obtained by motion made on petition. Any money or property paid or transferred to the Official Trustee or vested in him under this Section shall be subject to the same provisions as are contained in this Act as to other property vested in such Official Trustee under the provisions thereof.

LUCKNOW.—MUNICIPAL.

ACT No. XVIII. OF 1864.

[*Received the assent of the G. G. on the 24th March*, 1864.

1, 2. Directs the appointment of a Municipal Committee for Lucknow; and (2) names the *ex-officio* members, and directs election of others.

3. Authorizes Chief Commissioner of Oudh to fix limits of City, and to define who shall be inhabitants, &c.

4, 5. Authorizes Chief Commissioner to remove non-official members; and (5) to suspend or limit powers of Committee.

6. Commissioner of Lucknow to be President, Deputy Commissioner, Vice-President, City Magistrate, and Secretary.

7—9. Defines duties of Committee; and (8) authorizes Committee to contract; without (9) incurring personal liability, &c.

10, 11. Committee to make annual statement of expenditure; and (11) of work done, and money received and spent.

12. Directs how the Municipal Fund shall be composed.

13. Authorizes assessment of duties on consumables brought into the town.

14. Directs all moneys received to be paid into Bank of Bengal to credit of Chief Commissioner.

15—18. Authorizes the Commissioner to make Bye-laws for specified objects; (16) subject to confirmation of Chief Commissioner; and (17) to be hung up in office in English and Hindostance; and (18) to be of same effect as if in Act.

19. Directs as to prosecutions and fines.

20. Chief Commissioner of Oudh to be under control, &c., of Government of India.

21. Authorizes the Government of India to extend this Act to other places under its immediate administration; and (22) authorizes the chief authority of such place to establish a system of taxation, &c.

Preamble.

Whereas it is expedient to make provision for the appointment of a Municipal Committee for the City of Lucknow, and for levying duties on certain articles brought within the limits of the said City for consumption there, and generally for the regulation of all matters relating to the conservancy and improvement of the said City, it is enacted as follows:

Appointment of Municipal Committee.

I. On and after such date as the Chief Commissioner of Oudh shall order, there shall be a Committee for the purpose of this Act, which shall be called "The Municipal Committee of the City of Lucknow." The said Committee shall consist of twenty-five Members, of whom six shall be *ex-officio* Members.

Ex-officio Members of the Committee.

II. The persons for the time being filling the following Offices shall respectively be *ex-officio* Members of the Municipal Committee. That is to say, the persons filling the Offices of

Commissioner of Lucknow,
Deputy Commissioner of Lucknow,
Inspector General of Police in Oudh,
Civil Surgeon of Lucknow,
Executive Engineer of Lucknow,
City Magistrate of Lucknow.

Non-Official Members to be elected annually.

The Non-official Members of the said Committee shall be elected annually by and from amongst the inhabitants of the City, and shall hold office for one year only, but shall be eligible for re-election.

Chief Commissioner to define limits of Lucknow, and to regu-

III. The Chief Commissioner of Oudh shall from time to time declare what shall be deemed to be the limits of the City of Lucknow for the purposes

late the mode of election. Appointment of Non-official Members to be subject to his approval.

of this Act. He shall also declare who are, for the purposes of the last preceding Section, to be deemed inhabitants of the said City, and shall lay down rules fixing the time when the election of the Non-official Members of the Committee shall take place, and regulating the manner in which the elections shall be conducted. The appointment of every Non-official Member shall be subject to the approval of the Chief Commissioner, and in the event of any person elected not being approved of by him, the inhabitants shall proceed forthwith to elect another person in his stead.

Chief Commissioner may remove Non-official Member.

IV. It shall be lawful for the Chief Commissioner to remove from office any Non-official Member of the Committee; and in the event of any such Member being so removed, it shall be in the discretion of the Chief Commissioner to determine whether or not any person shall be elected to supply his place for the unexpired portion of the year for which such Member was elected.

Powers of Committee how to be limited or suspended.

V. It shall be lawful for the Chief Commissioner at any time, with the sanction of the Governor General of India in Council, to suspend or limit the powers or any of the powers of the Committee.

What officers to be President, Vice-President, and Secretary of the Committee.

VI. The Commissioner of Lucknow for the time being shall be the President of the Committee; the Deputy Commissioner of Lucknow shall be the Vice-President, and the City Magistrate of Lucknow shall be the Secretary.

Committee to do acts necessary for the conservancy and improvement of the City consistently with law.

VII. The Municipal Committee, so far as the funds at their disposal will permit, shall keep the streets, drains, and tanks of the City properly cleansed and repaired, and shall cause the said streets or such of them as may to them seem proper, to be lighted, and may construct new streets, drains, and tanks, and generally may do all acts and things necessary to the conservancy and improvement of the City so far as such acts and things be not repugnant to or inconsistent with the provisions of this or any other Law.

VIII. It shall be lawful for the Municipal Committee from time to time to enter into all necessary contracts for the purposes of this Act. Such contracts, if in writing, shall be signed by the Secretary and at least three Members of the Committee, and if any such contract be not reduced to writing, it shall be made with the Secretary. No contract made otherwise than as herein declared shall be in any way binding on the Committee, and no contract involving an expenditure of more than ten thousand Rupees shall be binding on the Committee unless made in writing and with the sanction of the Chief Commissioner of Oudh.

Into what contracts Committee may enter, and their mode of contracting.

IX. No Member of the Committee shall be personally liable for any contract made or expense incurred by or on behalf of the Committee; but the funds from time to time in the hands of the Committee shall be liable for and chargeable with all contracts and expenses duly incurred as aforesaid. Every Member of the Committee shall be liable for any misapplication of any moneys entrusted to the Committee, to which he shall have been knowingly party or privy, or which shall have happened through gross neglect of his duty, and he shall be liable to be sued for the same in such Court as the Chief Commissioner of Oudh shall direct, as for money due to the Government of India.

Members of the Committee not to be personally liable upon contracts made by the Committee.

Under what circumstance to be liable for the misapplication of money entrusted to the Committee.

X. The Committee shall each year, on or before such date prior to the First day of May as shall be fixed by the Chief Commissioner, furnish the Chief Commissioner with a statement or estimate (in such form as the Chief Commissioner shall direct), showing the expenditure which it is proposed by the Committee to incur during the year commencing on the First day of May then next, and the items in respect of which it is proposed to make such expenditure.

Annual estimate of expenditure to be incurred during the year to be sent to Chief Commissioner.

XI. The Committee shall, as soon as may be after the First day of May in each year, provide the Chief Commissioner with a statement in detail of all the work done by them and of all sums received and of all sums expended by them

Accounts and statement of work done, receipts and expenditure, to be annually furnished to Chief Commissioner.

during the year ending on the Thirtieth day of April then next preceding, in such form as the Chief Commissioner shall from time to time direct.

Municipal Fund.

XII. All such moneys as the Chief Commissioner or any other person shall from time to time make over to the Municipal Committee for the purposes of this Act, and all fines levied under this Act, shall form a Municipal Fund, of which the Committee shall be the Trustees, and which shall be applied by the Committee to the conservancy and improvement of the City of Lucknow, and to the payment of the salaries and wages of the Officers and servants employed by the Committee, and all other expenses incurred in or about the carrying out the provisions of this Act.

Duty to be levied on articles taken into Lucknow for consumption or use therein. Rates, how to be fixed.

XIII. Duties on such things, and at such rates as the Chief Commissioner shall, with the sanction of the Governor General of India in Council, from time to time declare, shall be levied in respect of the said things when brought into the City of Lucknow for consumption or use therein. The said duties shall be collected by such persons and in such manner as the Chief Commissioner shall direct. It shall be lawful for the Chief Commissioner to farm or let out the collection thereof for such period or periods as he shall think fit, but he shall in every case lay down rules as to the mode of levying and collecting the duties, and such rules shall have the like force and effect as Bye-laws duly made by the Committee.

Money received on account of duty to whom to be paid.

XIV. All moneys received on account of the duties aforesaid, if the same be collected directly under the orders of the Chief Commissioner, and all moneys received from the farming or letting out the collection of the duties, shall be paid into the Bank of Bengal to the credit of the Chief Commissioner. Out of the moneys paid in under this Section, the Chief Commissioner shall (after defraying the costs of collection, if any) make over to the Committee for the purposes of this Act such sum, not being less than one-third of the moneys so paid in, as shall to the Chief Commissioner seem proper.

Power of Committee to make Bye-laws.

XV. The Municipal Committee may from time to time make such Bye-laws as they may think fit, for defining, prohibiting and removing nuisances which are not public or common nuisances under the Indian Penal Code; for regulating the time and place of meeting of the Committee; the conduct of business at such meetings; the division of duties among the Members of the Committee; the appointment, suspension and removal of Officers and servants of the Committee, and fixing the salaries of such Officers and servants; for imposing penalties for the infringement of any Bye-law made by the Committee; and generally for the management of all matters connected with the conservancy and improvement of the City. The Committee may also from time to time repeal, alter, and amend any such Bye-laws. Provided that no Bye-law shall be repugnant to any law in force. Provided also that no penalty for the infringement of any such Bye-law shall exceed fifty Rupees, and that in case of a continuing infringement, no penalty shall exceed ten Rupees for every day after notice from the Committee of such infringement.

Bye-laws to be approved by Chief Commissioner.

XVI. No Bye-law or alteration of a Bye-law shall have effect until the same shall have been approved and confirmed by the Chief Commissioner, and shall have been duly published for such length of time and in such manner as the Chief Commissioner shall order.

Copies of Bye-laws to be exhibited in the office of the Committee.

XVII. A copy in the English and Hindoostanee languages, of every Bye-law and alteration of a Bye-law for the time being in force shall be painted on or affixed to boards, and such boards shall at all times be hung up in some conspicuous part of the office of the Committee.

Bye-laws to be of the same effect as if they were inserted in this Act.

XVIII. All Bye-laws, when the same shall have been duly confirmed and published shall, until the same be repealed or altered, be of the like effect as if they were inserted in this Act.

Before whom prosecutions to be instituted under this Act.

XIX. All prosecutions under this Act shall be instituted before a person exercising the powers of a Magistrate as defined in the Code of Criminal Procedure, and all fines imposed

may be recovered in the manner prescribed in Section 61 of the said Code. The amount of all fines realized shall be paid to the Municipal Committee and be applied by them to the purposes of this Act.

XX. The Chief Commissioner of Oudh shall, in every thing done under or relating to this Act, be subject to the orders and control of the Governor General of India in Council.

Control of Governor General in Council in respect of this Act.

XXI. Repealed by Act XXII., 1865, and a new provision substituted.

XXII. The Chief Commissioner of any place to which this Act shall be extended under the last preceding Section may, with the sanction of the Governor General of India in Council, declare that Sections XIII. and XIV. or either of them, or any of the provisions of those Sections, shall be of no effect in such place, and may also with the like sanction define the persons or property within such place to be taxed for raising the moneys necessary for the purposes of this Act, whether by house assessment or town duties or otherwise, the amount or rate of the taxes to be imposed, the manner of raising and collecting them and ensuring the safety and due application of them when collected. Provided that no tax, duty, or other rate shall be levied under this Section in any place in which duties are levied under Section XIII. of this Act.

A system of taxation for such place may be established in lieu of provisions of Sections XIII. and XIV. of this Act.

Proviso.

MIRZAPORE.—A NON-REGULATION DISTRICT.

ACT No. XIX. OF 1864.

[*Received the assent of the G. G. on the 24th March,* 1864.

1—3. Makes places named in Schedule non-regulation; and (2) places them under direct administration of Government of North-Western Provinces; and (3) provides for settlement of question of boundary of district.

4. Act to take effect from time to be notified.

Schedule of places.

Whereas it is expedient to remove certain tracts of country in the District of Mirzapore from the jurisdiction exercised by the Civil, Criminal, and Revenue

Preamble.

Courts and Officers of that District under the General Regulations and Acts of the Government, it is enacted as follows:

Certain tracts removed from jurisdiction of the ordinary tribunals.

I. The tracts of country described in the Schedule to this Act are hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the Officers of Revenue, constituted by the Regulations of the Bengal Code and by the Acts passed by the Governor General of India in Council; provided that nothing herein contained shall extend to or affect any case now pending in any Court or Office.

Proviso.

Administration of Justice and collection of Revenue, vested in Officers appointed by Lieutenant-Governor of the North-Western Provinces.

II. The administration of Civil and Criminal Justice and the superintendence of the settlement and realization of the Public Revenue, and all matters relating to rent within the said tracts, are hereby vested in such Officer or Officers as the Lieutenant-Governor of the North-Western Provinces may, for the purpose of tribunals of first instance or of reference and appeal, appoint; and the said Lieutenant-Governor may fix the periods within which appeals shall be preferred; provided that no sentence of death passed by any person competent under the appointment of the Lieutenant-Governor to pass such sentence, shall be carried into execution until it be confirmed by the Sudder Court.

Question as to whether a place falls under this Act how to be settled.

III. When a question shall arise whether any place falls within the tracts described in the Schedule of this Act, it shall be competent to the Commissioner of the Division to determine on which side of the described boundary the place aforesaid may lie, and the order made by the Commissioner shall be final.

Commencement of operation of this Act.

IV. This Act shall take effect from such date as shall be fixed by the Lieutenant-Governor of the North-Western Provinces, and notification thereof shall be published in the Office of the Commissioner of the Division, and in the Courts of the Civil and Sessions Judge, and of the Magistrate of the District, and in such other manner as the Lieutenant-Governor may direct.

SCHEDULE.

The tracts referred to in the foregoing Act are as follows:—

Pergunnah Agoree, Tuppahs Agoree, Khas and South Kone.

Pergunnah Singrowlee, Tuppah British Singrowlee.

Pergunnah Bicheepore, Tuppahs Phoolwa Doodhee, and Burha.

BOMBAY.—MINORS.

ACT No. XX. OF 1864.

[*Received the assent of the G. G. on the 24th March*, 1864.

1—5. Vests the care of Minors (not being British subjects) and their property in Civil Court; but (2) persons entitled to administer their property may obtain certificate for administration from Civil Court; and relative, &c., of Minor may apply to Civil Court to take charge of Minor or his property; the Civil Court (4) to be that of the District in which the Minor resides; and (5) notice of such application to be given in manner prescribed.

6, 7. Directs to whom certificate of administration shall be given; and (7) authorizes the Court to require report on character, &c., of applicant.

8—11. Directs appointment of Curator of moveable property, &c.; and (10) of guardian of person of Minor, with allowances, &c.; and (11) may appoint collector of property consisting of land, &c.

12. Authorizes the Court to require security from private administrator.

13. Authorizes the Court to order costs.

14. Directs what is to be done when one of several Minors is of full age.

15. Collector in charge to be under control of Revenue Authorities.

16, 17. Administrators to file inventory; and (17) to invest surplus funds in public securities.

18—20. Gives certificated administrators the same powers for collection and payment of debts, &c., as proprietors, but not to sell, &c.; and (19) makes him liable to be sued for amount, &c.; and (20) such suit may be continued by party entrusted when his disqualification ceases.

21. Empowers Civil Court to recal certificate.

22. Empowers Civil Court to impose fine not exceeding 500 Rupees on administrators, &c., for neglect to account, &c.

23. Empowers Civil Court to permit private administrators to resign their trust, &c.

24. Authorizes the Civil Court to allow commission to curators and administrators.

25—28. Requires guardian to provide suitably for the education of male Minor; (26) subject to control of Civil Court, and (27) empowers the Court to cause education to be under private tutor, &c.; and (28) expenses to be defrayed out of estate.

29. Empowers guardian to pay expenses of marriage of Minor.
30. Minority to cease at 18.
31, 32. Act not to authorize appointment of guardian of Female Minor if husband is not a Minor, &c.; nor (32) to apply to cases of lunatics, &c.
33. Orders under this Act to be appealable to High Court.
34. Interprets term "Civil Court," and saves powers of High Court, and enlarges sense of words of Number and Gender.

Whereas it is expedient to make better provision for the care of the persons and property of Minors in the Presidency of Bombay, it is enacted as follows:

Preamble.

Care of persons and charge of property of Minors vested in the Civil Court.

I. The care of the persons of all Minors (not being European British subjects) and the charge of their property shall vest in the Civil Court.

What persons claiming to have charge of property in trust for a Minor may apply for Certificate of Administration.

II. Every person who shall claim a right to have charge of property in trust for a Minor under a Will or Deed or other instrument in writing, or by reason of nearness of kin or otherwise, may apply to the Civil Court for a Certificate of Administration; and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge, until he shall have obtained such Certificate. Provided that when the property is of small value, not exceeding Rupees two hundred and fifty, any Court having jurisdiction may allow any relative of a Minor to institute or defend a suit on his behalf, although a Certificate of Administration has not been granted to such relative.

No person to institute or defend a suit without such Certificate.

Proviso.

Who may apply to Court to appoint a person to take charge of the property, &c., of a Minor.

III. Any relative or friend of a Minor in respect of whose property such Certificate has not been granted, or, if the property consist in whole or in part of land or any interest in land, the Collector of the District may apply to the Civil Court to appoint a fit person to take charge of the property and person of such Minor.

To what Court application to be made if property be situate in more than one District.

IV. If the property be situate in more than one District, any such application as aforesaid shall be made to the Civil Court of the District in which the Minor has his residence.

Summary inquiry to be made by Court on application.

V. When application shall have been made to the Civil Court, either by a person claiming a right to have charge of the property of a Minor, or by any relative or friend of a Minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same. On the day so fixed, or as soon after as may be convenient, the Court shall inquire summarily into the circumstances, and pass orders in the case. Provided always that it shall be competent to the Civil Court to direct any Court subordinate to it to make such inquiry and report the result.

Proviso.

Certificate of Administration to whom to be granted.

VI. If it shall appear that any person claiming a right to have charge of the property of a Minor is entitled to such right by virtue of a Will or Deed or other instrument in writing, and is willing to undertake the trust, the Court shall grant a Certificate of Administration to such person. If there is no person so entitled, or if such person is unwilling to undertake the trust, and there is any near relative of the Minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a Certificate to such relative. The Court may also if it think fit (unless a Guardian have been appointed by the father), appoint such person as aforesaid, or such relative or any other relative or friend of the Minor, to be Guardian of the person of the Minor.

Court may appoint person having such Certificate Guardian of Minor's person.

Court may call upon Collector or Magistrate for a report on the character and qualification of relative or friend.

VII. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the Minor, who may be desirous or willing to be entrusted with the charge of his property or person, and it shall be incumbent on the Collector or Magistrate to furnish such report after making all due inquiry.

Proceeding if no title to a Certificate be established, and if there be no relative fit to be entrusted with the charge of property, &c., of Minor.

VIII. If no title to a Certificate be established to the satisfaction of the Court by a person claiming under a Will or Deed or other instrument in writing, and if there be no near relative willing and fit to be entrusted with the charge of the property or person of the

Minor, and the Court shall think it to be necessary for the interest of the Minor that provision should be made by the Court for the charge of his property or person, the Court shall proceed to make such provision in the manner hereinafter provided.

If estate consists of moveable property, &c., Court may grant Certificate to Public Curator or other person.

IX. If the estate of the Minor consists of moveable property or of houses, gardens, or the like, the Court shall grant a Certificate to the Public Curator appointed under Section XIX., Act XIX. of 1841 (*for the protection of moveable and immoveable property against wrongful possession in cases of successions*), or if there be no Public Curator to any fit person whom the Court may select for the purpose.

Appointment of Guardian.

X. Whenever the Court shall grant a Certificate of Administration to the estate of a Minor as aforesaid, it shall at the same time appoint a Guardian to take charge of the person and maintenance of the Minor. The person to whom a Certificate of Administration has been granted, unless he be the Public Curator, or the legal heir of the Minor, or next in succession to the property, may be appointed Guardian. Provided that in the case of Minors who have inherited property by adoption, the natural father may be appointed Guardian. If the person appointed to be Guardian be unwilling to discharge the trust gratuituously,

Guardian's allowance.

the Court may assign him such allowance to be paid out of the estate of the Minor as under the circumstances of the case it may think suitable. The Court

Allowance for maintenance of Minor, &c.

may also fix such allowance as it may think proper for the maintenance of the Minor, surviving parent, whether natural or adoptive, husband, wife and children, if any, and such allowance and the allowance of the Guardian (if any) shall be paid to the Guardian by the Public Curator or other person as aforesaid.

When the estate consists of land, Court may direct Collector to take charge of estate.

XI. If the estate of the Minor consist in whole or in part of land or any interest in land, the Court may direct the Collector of the District in which the larger part of the same may be situated to take charge of the estate.

XII. The Civil Court may take such security as it shall think necessary, from any person to whom it may grant a Certificate of Administration of the property of any Minor under this Act. Provided always, that no such security shall be demanded from the Collector of a District or the Public Curator, when their services may be availed of.

Court may take security.

Proviso.

XIII. In all inquiries and other proceedings held or had by the Civil Court under this Act, the Court may make such order as to the payment of costs by the person on whose application such inquiry was made or proceeding had, or out of the estate of the Minor, or otherwise, as it may think proper.

Cost of inquiries under this Act.

XIV. Whenever one or more of the proprietors of an estate which has been placed under the Collector's charge shall have passed his or their minority, the Collector shall represent the fact to the Civil Court, and the Court, unless it see sufficient reason to the contrary, may direct the Collector to retain charge of the shares of the property of the still disqualified proprietors during the continuance of their disqualification, or until it shall be otherwise ordered by the Court; or the Court may direct the whole estate to be made over to the management of the proprietor or proprietors who shall have become of age, with such directions as to the share or shares of the still disqualified proprietor or proprietors as to the Court shall seem fit and proper.

Course to be followed when one or more of the proprietors of an estate placed under Collector's charge may come of age.

XV. The proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue Authorities.

Proceedings of Collector subject to control of superior Revenue Authorities.

XVI. The Public Curator and every other Administrator to whom a Certificate shall have been granted under Section X. shall, within six months from the date of the Certificate, deliver in Court an inventory of all the immoveable property belonging to the Minor, and of all such sums of money, goods, effects, and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same. And the Public Curator and every such other Adminis-

Public Curator, &c., to furnish inventory and annual accounts.

trator shall furnish annually within three months from the First of May of the Christian era an account of the property in his charge, exhibiting the amounts received, disbursed, and invested on account of the estate, and the balance in hand. If any relative or friend of a Minor, or any public Officer by petition to the Court shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the Curator or Administrator, and inquire summarily into the matter and make such order thereon as it shall think proper, or the Court, at its discretion, may refer such petition to any subordinate Court for investigation and report.

Proceeding if accuracy of inventory of account be impugned.

XVII. All sums received by the Public Curator or such other Administrator on account of any estate, in excess of what may be required for the current expenses of the Minor or of the estate, shall by him be invested on account of the estate, from time to time, in the Public Securities.

Surplus funds to be invested by Public Curator, &c., in Public Securities on account of estate.

XVIII. Every person to whom a Certificate shall have been granted under the provisions of this Act may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a Minor, and may collect and pay all just claims, debts, and liabilities due to or by the estate of the Minor. But no such person shall have power to sell, alienate, mortgage, or otherwise incumber any immoveable property, or to grant a lease thereof for any period exceeding five years, without the sanction of the Civil Court previously obtained.

Powers of person to whom Certificate has been granted in the management of Minor's estate.

XIX. It shall be lawful for any relative or friend of a Minor at any time during the continuance of the minority to sue for an account from any Manager appointed under this Act, or from any person to whom a certificate shall have been granted under the provisions of this Act, or from any such Manager or person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Relative or friend may sue for an account.

XX. If the disqualification of a person for whose benefit a suit shall have been instituted under this Act cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

Continuance of suit instituted under this Act after disqualification shall have ceased.

XXI. The Civil Court for any sufficient cause may recall any Certificate granted under this Act, and may direct the Collector to take charge of the estate, or may grant a fresh Certificate to the Public Curator or any other person, as the case may be, and may compel the person whose Certificate has been recalled to make over the property in his hands to his successor, and account to such successor for all moneys received and disbursed by him. The Court may for any sufficient cause remove any Guardian appointed by the Court.

Revocation of certificate.

Removal of Guardian.

XXII. The Civil Court may impose a fine not exceeding five hundred Rupees on any person who may wilfully neglect or refuse to deliver his accounts or any property in his hands, within the prescribed time or a time fixed by the Court, and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court, and may also commit the recusant to confinement in the Civil Gaol until he shall consent to deliver such accounts or property.

Penalty for neglect or refusal to deliver accounts or property.

XXIII. The Civil Court may permit any person to whom a certificate shall have been granted under this Act, not being the Public Curator, and any Guardian appointed by the Court, to resign his trust, and may give him a discharge therefrom on his accounting to his successor duly appointed for all moneys received and disbursed by him and making over the property in his hands.

Civil Court may permit resignation of trust, &c.

XXIV. The Public Curator and every other Administrator to whom a Certificate shall have been granted under Section X., shall be entitled to receive such commission not exceeding five per centum on the sums received and disbursed by him, or such other allowance to be paid out of the Minor's estate, as the Civil Court shall think fit.

Remuneration of Public Curator, &c.

Guardian of Minors under this Act to provide for their education.

XXV. Every Guardian appointed by the Civil Court under this Act who shall have charge of any male Minor shall be bound to provide for his education in a suitable manner. The general superintendence and control of the education of all such Minors shall be vested in the Civil Court.

Civil Court may fix the residence and place of education of Minor.

XXVI. In the exercise of this superintendence and control, it shall be lawful for the Civil Court to direct that such Minor shall reside either with or without his Guardian at the Sudder Station of the District, or at any other place within the Presidency of Bombay, and shall attend, for the purposes of education, such School or College as to the said Civil Court may seem expedient, and to make such provision as may be necessary for the proper care and suitable maintenance of the said Minor whilst attending such School or College.

Or in certain cases cause Minor to be educated privately.

XXVII. If it shall appear to the Civil Court inexpedient to place any such Minor at School or College, it shall, if the proceeds of the estate are sufficient for that purpose, cause such Minor to be educated by a private tutor properly qualified, either at the family residence of such Minor, or at the Sudder Station, or elsewhere within the Presidency of Bombay, and in that case also the Civil Court shall have power to determine, from time to time, the place of residence of such Minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

Charges and expenses incurred under this Act for education, &c., to be paid out of the profits of Minor's estate.

XXVIII. All charges and expenses which may be incurred on account of any male Minor under the provisions of this Act, for College or School fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home or otherwise, shall be defrayed from the profits of his estate in the same manner as other expenses incurred under the authority or with the sanction of the Civil Court.

Marriage of Minors.

XXIX. Every Guardian appointed under this Act who shall have charge of an unmarried Minor, shall pay all the necessary expenses of the marriage of

such Minor out of the estate; provided that these expenses shall in no case, without the sanction of the Civil Court, involve the Minor's estate in debt.

Who to be held a Minor for the purposes of this Act.

XXX. For the purposes of this Act every person shall be held to be a Minor who has not attained the age of eighteen years.

Act not to authorize the appointment of Guardians of certain married women.

Guardianship during the minority of the husband of Minor when to cease.

XXXI. Nothing in this Act shall authorize the appointment of a Guardian of the person of a female whose husband is not a Minor, or the appointment of any person other than a female as the Guardian of the person of a female. If a Guardian of the person of a Minor be appointed during the minority of the husband of the Minor, the Guardianship shall cease as soon as the husband shall attain the age of majority.

Act not to interfere with Act XXXV. of 1858.

XXXII. Nothing in this Act shall be held to interfere with the provisions of Act XXXV. of 1858 (*for making better provision for the care of the Estates of Lunatics*).

Orders of the Civil Court open to appeal.

XXXIII. All orders passed by the Civil Court under this Act, shall be open to appeal to the High Court at Bombay, and shall be subject to all the provisions contained in Section 366 of the Code of Civil Procedure.

Construction of words "Civil Court."

XXXIV. The expression "Civil Court," as used in this Act, shall be held to mean the principal Court of original Civil Jurisdiction in the District, and shall not include the High Court of Judicature; and

Powers of High Court not to be affected.

nothing contained in this Act shall be held to affect the powers of the High Court of Judicature over the person or property of any Minor subject to its jurisdiction.

Number.

Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and

Gender.

words importing the masculine gender shall include females.

CALCUTTA.—POLICE MAGISTRATES.

ACT No. XXI. OF 1864.

[*Received the assent of the G. G. on the 1st April*, 1864.

Recites expediency of enlarging summary powers of Police Magistrates in Calcutta.

1. Extends summary jurisdiction to offences under Chapter XIV. of I. P. C., except Sections 280, 281; but punishment not to exceed six months' rigorous imprisonment and fine 200 Rupees.

2. Extends to Calcutta Sections 62, 63, 308 to 314 of C. C. P.

3. Authorises Magistrate in such cases to issue Summons or Warrant without complaint before him.

4—6. Extends procedure of Act XIII., 1856, to offences, &c., under this Act; and (5) Act to come into operation on 1st August, 1864; and (6) may be extended by Local Government to Madras and Bombay.

Preamble.

Whereas it is expedient to empower the Magistrates of Police in Calcutta to punish summarily certain offences in addition to those which they are now empowered so to punish, it is enacted as follows:

Persons guilty of certain offences may be tried summarily by a Magistrate of Police.

I. Every case in which any person is charged before a Magistrate of Police in Calcutta with having within the limits of the said Town, or within the limits of the Port of Calcutta, as those limits are or may hereafter be defined under Act XXII. of 1855, (*for the regulation of Ports and Port-dues*), committed any offence under any of the provisions contained in Chapter XIV. of the Indian Penal Code, except Sections 280 and 281, may be heard and determined by such Magistrate in a summary way: and every such person shall on conviction by such Magistrate be punished in the manner provided by the Indian Penal Code for the punishment of the offence of which he shall be convicted. Provided that no Magistrate shall under this Act be competent to pass sentence in respect of any offence beyond the following limits, that is to say:—Imprisonment of either description not exceeding six months, or fine not exceeding two hundred Rupees, or both imprisonment and fine in cases in which both punishments are authorized by the Indian Penal Code. Provided also that the Magistrate may commit to the High Court for trial any such case which he may in his discretion think it proper so to commit.

II. Sections 62, 63, 308, 309, 310, 311, 312, 313, and 314 of the Code of Criminal Procedure are hereby extended to and shall have operation within the Town of Calcutta and within the limits of the Port of Calcutta defined as aforesaid, and the words "Magistrate" and "Magistrate of a District," as used in the said Sections, shall denote any Magistrate of Police in Calcutta who may be authorized in that behalf by the Local Government.

Sections 62, 63, 308, 309, 310, 311, 312, 313, and 314 of the Code of Criminal Procedure extended to Calcutta.

III. Any Magistrate of Police in Calcutta authorized as aforesaid may, without any complaint, take cognizance of any offence which he has power to hear and dispose of in a summary manner, which may come to his knowledge, and he may issue a summons, or, in cases where a warrant may issue, a warrant of arrest against the person known or suspected to have committed such offence, in the same manner as if a complaint had been made against such person.

Magistrate may take cognizance of offences without complaint made.

IV. Save as in this Act otherwise provided, the procedure contained in Act XIII. of 1856 (*for regulating the Police of the Towns of Calcutta, Madras, and Bombay*), as amended by Act XLVIII. of 1860 (*to amend Act XIII. of* 1856), shall be applicable to offences committed and charges made under this Act.

Procedure in such cases.

V. This Act shall come into operation on the First day of May, 1864.

Commencement of Act.

VI. This Act may by an order of the Governor in Council of Fort St. George, or of the Governor in Council of Bombay respectively, to be published in the Official Gazette, be extended to the Towns and Ports of Madras and Bombay, and when so extended by such order, shall take effect in the Town and Port to which the order shall relate from the date of the publication of such order. When so extended to either the Town and Port of Madras, or the Town and Port of Bombay, this Act shall in all respects apply to such Town and Port as if the name of such Town and Port had appeared in this Act wherever the name of Calcutta appears.

Act may be extended by Governors in Council of Madras and Bombay.

BENGAL.—MILITARY CANTONMENTS.

ACT No. XXII. OF 1864.

[*Received the assent of the G. G. on the 1st April*, 1864.

Recites expediency of making regulations for administration of justice and the Public Health in Military Cantonments.

1, 2. Interprets the words "British India," "Local Government," "Section," words of "Number" and "Gender;" and (2) repeals Scheduled Acts.

3, 4. Appoints the name of Cantonment Magistrate, and requires him to proceed according to C. C. P.; (4) as if he were a Divisional District Magistrate.

5. Appoints the name of Assistant Cantonment Magistrate, and defines his powers.

6—8. Authorizes the establishment of Small Cause Courts for Military Cantonments, the Judge to be the Chief Magistrate, but jurisdiction not to exceed 500 Rupees; and (7) Small Cause Court's Act to apply; and (8) to take the place of Military Courts of Requests.

9. Assistant Cantonment Magistrate may be invested with Small Cause Court powers to extent of Rs. 50.

10. Military Cantonment may be declared a sub-district for purposes of Act XVI., 1864, and Cantonment Magistrate may be Registrar.

11. Cantonment Police Force to be part of the General Police Force, and to be under Act V., 1861.

12. Government may extend Act V., 1861, Section 34, to Military Cantonments.

13. Entitles Cantonment Commanding Officer to send process to the Chief Police Officer of Cantonment for service, &c.

14—18. Empowers Government to extend Act XX., 1856, to Military Cantonment, &c.; and (15) to order the Cantonment to be divided; and (16) may prescribe rules for regulating expenditure, &c.; but (17) such rules not to be inconsistent with Act or law; and (18) no such rule to take effect until confirmed by Governor General in Council.

19. Prescribes under 11 heads for what matters Rules may be made.

20. Breaches of the Rules to be triable by the Cantonment Magistrate, &c., who is in that respect to be independent of the District Magistrate, &c.

21—23. Makes penalties recoverable by distress and sale, and (22) in default of effects, offenders to be liable to one month's simple imprisonment; and (23) in the Civil Gaol, and under Sections 19—22, in the Criminal Gaol.

24. Saves the liability of offenders to be proceeded against under general law.

25, 26. Empowers Governor General in Council to extend the Rules outside the Military Cantonment; and (26) in case of extension to provide for imposition of penalties.

27. All Courts to take judicial notice of Rules.

28. Rules made under this Act to supersede all existing rules and power to make new ones except under Act.

29, 30. Provides penalty for illegal sale of spirits, &c., to or for European Soldier, &c.; and (30) for second offence makes spirit, &c., in possession of convict liable to confiscation.

31—33. Makes Camp Followers, &c., liable to penalties for having without permit more than specified quantities of spirits, &c.; and (32) offenders against Sections 30 and 31 to be liable to arrest, &c., without warrant; and (33) makes liquor in possession of convict under Sections 30, 31, liable to confiscation, &c.

34. Things seized under Section 32 may be detained until trial, and be restored or confiscated according to the event, &c.

35. Medicinal articles not within the foregoing provisions.

36, 37. Saves the powers of Courts Martial, &c., under Articles of War; and (37) legalizes retrospectively all acts in Military Cantonment done by orders of Government.

38, 39. Limits the Act of Bengal Presidency; but (39) it may be extended to places under the executive Government of the Government of India.

40—42. Empowers the Governors of Madras, Bombay and the Punjab to extend the Act to their provinces respectively; and (41) gives same to Governors of N. W. Provinces and Bengal as to Territories not within Bengal; (42) extension orders to be published in Official Gazette.

43—45. Empowers the Governor General in Council to provide for the exercise of powers and jurisdiction under this Act in Territories not subject to the General Regulations, or to the British Government; and (44) to declare what shall be the Court of Appeal from Small Cause Courts in Military Cantonments; and (45) what authorities shall be Registrar, &c.

46. Annuls antecedent Acts, &c., as respects Cantonments in Madras, Bombay, and Punjab from time this Act comes in operation.

Schedule of Regulations and Acts repealed.

Preamble.

Whereas it is expedient to make provision for regulating the administration of Civil and Criminal Justice and the superintendence of Police and Conservancy, for protecting the public health within the limits of Military Cantonments, and for laying down Local Rules and Regulations to be enforced within such limits, it is enacted as follows:

Interpretation.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:—

"British India."

The words "British India" denote the Territories which are or may become vested in Her Majesty by the

Statute 21 and 22 Victoria, Chapter 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"Local Government." The words "Local Government" denotes the person or persons authorized by law to administer Executive Government in any part of British India.

"Section." The word "Section" denotes a Section of this Act.

Number. Words importing the singular number include the plural number, and words importing the plural number include the singular number.

Gender. Words importing the masculine gender include females.

Act and parts of certain Regulations repealed. II. The Act and the parts of the Regulations in the Schedule hereunto annexed set forth, are hereby repealed to the extent in the said Schedule declared.

Criminal jurisdiction of a Cantonment Magistrate. III. When any person shall be invested by the Local Government, under the provisions of Section XXIII. of the Code of Criminal Procedure, with the powers of a Magistrate within the limits of any Military Cantonment, such person shall be styled the Cantonment Magistrate, and within the limits of such Cantonment shall, subject to the control of the Magistrate of the District in which such Cantonment is situate, exercise the powers of a Magistrate as defined in the said Code, for the purpose of disposing of all cases arising within such Cantonment which the Magistrate of the District might dispose of, and for the commitment for trial before the Court of Session of the District or place in which such Cantonment is situate, of any person charged with any offence triable before the Court of Session, or for which the person charged shall appear to deserve a more severe sentence than a Magistrate is competent under the said Code of Criminal Procedure to award.

Cantonment Magistrate to be deemed a Magistrate in charge of a Division of a District. IV. The Cantonment Magistrate shall be considered a Magistrate in charge of a Division of a District within the meaning and for the purposes of the Code of Criminal Procedure.

Assistant Cantonment Magistrates.

V. When any person shall be invested by the Local Government under the provisions of Section XXIII. of the Code of Criminal Procedure, with the powers of a subordinate Magistrate of the 1st or 2nd Class within the limits of any Military Cantonment, such person shall be styled the Assistant Cantonment Magistrate, and shall be subject to the Rules laid down for subordinate Magistrates in the said Code.

Small Cause Courts may be established in Cantonments.

VI. The Local Government may, within the limits of any Military Cantonment, establish a Court of Small Causes for the trial of suits of the nature described in Section III. of Act XLII. of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), and the Cantonment Magistrate, if there be a Cantonment Magistrate, shall be the Judge of the Court so established within his jurisdiction. The Local Government shall from time to time declare the pecuniary limit of the jurisdiction of every Court established under this Section, but such limit shall in no case exceed five hundred Rupees.

Act XLII. of 1860 to apply to all such Courts.

VII. Every Court of Small Causes established under this Act shall be deemed to be a Court established under the said Act XLII. of 1860, and all the provisions of the said Act shall be applicable to every such Court, and to all suits instituted in any such Court, except as is herein otherwise provided.

Acts establishing Military Courts of Requests to cease to have effect in Cantonments where Cantonment Magistrates are appointed to be Small Cause Court Judges.

VIII. Whenever a Court of Small Causes is established in any Military Cantonment under the provisions of Section VI., the jurisdiction exercised in such Cantonment by any Officer under Act III. of 1859 (*for conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registrars of Deeds*), shall cease and determine, and so much of any Act as authorizes the Commanding Officers of Stations or Cantonments to convene Military Courts of Requests for the trial of actions of debt and other personal actions as aforesaid, shall cease to have effect within the limits of such Cantonment.

IX. The Local Government may invest any Assistant Cantonment Magistrate with the powers of a Judge of a Court of Small Causes to try suits instituted in any Court which is established under Section VI.; provided that no Assistant Cantonment Magistrate shall have jurisdiction to try suits for an amount exceeding fifty Rupees.

Assistant Cantonment Magistrate may be invested with powers of a Small Cause Court Judge in suits for an amount not exceeding fifty Rupees.

X. Any Military Cantonment may be declared by the Local Government to be a Sub-District for the purposes of Act XVI. of 1864 (*to provide for the Registration of Assurances*). The Cantonment Magistrate of any Cantonment so declared shall be the Deputy Registrar thereof.

Cantonment may be declared a Sub-District under Act XVI. of 1864.

XI. The Police Force employed in any Military Cantonment shall be deemed to be part of the General Police Force under the Local Government in whose Territories such Cantonment is situate, within the meaning of Section II., Act V., of 1861 (*for the Regulation of Police*), and all the provisions of the said Act shall be applicable to such Force. The administration of the Police within the limits of any Cantonment in which there shall be a Cantonment Magistrate shall be vested in the District Superintendent, subject to the general control and direction of the Commanding Officer of such Cantonment.

Act V. of 1861, applicable to Police employed in Military Cantonments.

Administration of Police within Cantonments.

XII. The Local Government may extend Section XXXIV. of the said Act V. of 1861, to any Military Cantonment situate in the Territories under such Government.

Extension of Section XXXIV. Act V., of 1861, to Military Cantonments.

XIII. The Commanding Officer of a Cantonment may send any process requiring service or execution by any means not immediately at his disposal, to the Chief Police Officer in the Cantonment for service or execution through the Cantonment Police, and it shall be the duty of the said Chief Police Officer to serve or execute such process in the same manner as if it had been issued by the Cantonment Magistrate, and subject to the same rules.

Service and execution, through Cantonment Magistrate, of process issued by Commanding Officer of a Cantonment.

Local Government may extend Act XX. of 1856 to any Military Cantonment.

XIV. It shall be lawful for the Local Government to extend the provisions of Act XX. of 1856 (*to make better provision for the appointment and maintenance of Police Chowkedars in Cities, Towns, Stations, Suburbs and Bazaars in the Presidency of Fort William in Bengal*) to any Military Cantonment to which a Cantonment Magistrate may be appointed, and the Cantonment Magistrate of any Military Cantonment to which the said Act shall be so extended may exercise all the powers vested in a Magistrate by that Act subject only to the control of the Magistrate of the District and the Local Government. If there be no Cantonment Magistrate, the Magistrate of the District shall carry out the provisions of the said Act when so extended as aforesaid.

And may order division of Cantonments, &c.

XV. It shall be lawful for the Local Government to order that any Military Cantonment to which the provisions of the said Act XX. of 1856 shall be extended be divided into any number of Cantonment divisions, and to determine the nature of the tax to be levied in each such division according to Section X. of the said Act.

And may prescribe rules for regulating expenditure of funds raised.

XVI. The Local Government may prescribe rules for regulating the expenditure for the general purposes of this Act, of any funds raised under the said Act XX. of 1856. Such funds may be expended for the purpose of carrying out any measures under any of the Rules and Regulations made under Section XVII. of this Act in addition to or in lieu of the purposes described in Section XXXVI. of the said Act XX. of 1856.

And may make Rules and Regulations to provide for certain matters hereinafter mentioned: the same to be general or special.

XVII. The Local Government shall have power to make Rules and Regulations not inconsistent with the provisions of this Act or of any other law in force, to provide within the limits of any Military Cantonment for the matters hereinafter mentioned, and from time to time to repeal, or alter, such Rules and Regulations. The Rules and Regulations made under this Section may be general for all Military Cantonments in the Territories under the Local

Government making the same, or special for any one or more of such Cantonments, according as the Local Government shall direct.

Rules and Regulations to be confirmed by Governor General in Council.

XVIII. No Rule or Regulation made or altered under the last preceding Section shall have effect until the same shall have been confirmed by the Governor General of India in Council. A copy of every such Rule and Regulation, when so confirmed, in English and in the vernacular language chiefly in use, shall be hung up in some conspicuous part of the Office of the Cantonment Magistrate, or in such other place as the Local Government or the Commanding Officer may direct.

For what matters Rules and Regulations may provide.

XIX. The Rules and Regulations made under Section XVII. may provide—

1*st.* For regulating in cases in which the land within the limits of the Cantonment is the property of Government and the occupation and use of which by private persons is only permissive, the conditions under which occupation or use shall be allowed, and under which the Government may resume possession of such land, and under which compensation shall be given to persons occupying or using the land so resumed.

2*nd.* For maintaining proper registers or immoveable property within the limits of the Cantonment, and for providing for the registration of transfers of such property.

3*rd.* For regulating the manner in which houses within the limits of the Cantonment shall be claimable for purchase or hire, when necessary, for the accommodation of Military Officers.

4*th.* For regulating the management and expenditure of any funds made available by law or by the Government for the purpose of public improvements within the limits of the Cantonment, or for carrying out any Rules and Regulations passed under this Section, and the appointment of the necessary servants and establishments.

5*th.* For the definition and prohibition of public nuisances.

6*th.* For the maintenance generally of the Cantonment in a proper sanitary condition; for the prevention and cure of disease; for the management and regulation of the public roads, of

conservancy and drainage; for the regulation and inspection of public and private necessaries, urinals, cesspools, drains, and all places in which filth or rubbish is deposited; of slaughter houses, public markets, burial and burning grounds, and of all offensive or dangerous trades and occupations.

7th. For inspecting and controlling houses of ill-fame and for preventing the spread of venereal disease.

8th. For the supervision and regulation of public wells, tanks, springs or other sources from which water is or may be made available for public use.

9th. For the execution and promotion of works of public utility and convenience.

10th. For the registration of deaths and for making and recording observations and facts important for the public health and interests.

11th. For the imposition of penalties on persons convicted of the breach of any Rule or Regulation made under Section XVII., and for declaring what persons shall make the preliminary inquiry into or take cognizance of any breach of such Rules and Regulations, and the manner in which the investigation shall be conducted. Provided that no penalty so imposed shall exceed a fine of fifty Rupees, or imprisonment for eight days with or without labor.

XX. Breaches of any Rule or Regulation made under Section XVII. shall be triable by the Cantonment Magistrate when there is such an Officer: but the Local Government may invest any Assistant Cantonment Magistrate, or any other person, with powers to try such breaches, and may authorize such person to exercise such powers independently of the Cantonment Magistrate. The Magistrate of the District shall have no control over the Cantonment Magistrate or over any Assistant Cantonment Magistrate, or any other person invested with such powers as herein aforesaid.

Trial of breaches of Rules and Regulations.

XXI. In every case in which an offender is sentenced to a fine for the breach of any Rule or Regulation made under Section XVII., the amount may, in case of non-payment, be levied by distress and sale of any moveable property of the offender which may be found within the limits of the Cantonment.

Amount of fine imposed, how to be levied.

Imprisonment in case of amount not being levied.

XXII. If no such property sufficient for the payment of the fine can be found, the offender shall be liable to be imprisoned without labor for any term not exceeding one month.

Place of imprisonment.

XXIII. The imprisonment under Section XIX. or Section XXXII. may be, if without labor, in the Civil Gaol; and if with labor, in the Criminal Gaol of the District.

Prosecutions, &c., under other Regulations, &c., not barred by this Act.

XXIV. Nothing in this Act nor in any Rule or Regulation made under Section XVII. shall prevent any person from being prosecuted under any other Regulation or Act for any offence punishable under this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act. Provided that no person shall be punished twice for the same offence.

For protection of the health of the troops, Rules and Regulations made under the 7th Clause of Section XIX. may be extended beyond limits of Cantonments.

XXV. Whenever it shall appear necessary for the protection of the health of the troops in any Military Cantonment, it shall be lawful for the Governor General of India in Council to extend to any place outside the limits of such Military Cantonment, and in the vicinity of such Cantonment, all or any of the Rules and Regulations made for such Cantonment under Clause 7 of Section XIX. and to make any additional Rules and Regulations under the said Clause, and to define the limits around such Cantonment within which such Rules and Regulations or additional Rules and Regulations shall be in force.

How penalties may be imposed and enforced for breach of Rules and Regulations in extended limits.

XXVI. When such Rules and Regulations, with any additional Rules or Regulations made as above, shall be extended under the last preceding Section to any place outside the limits of such Cantonment, it shall be lawful for the Governor General of India in Council to provide in the manner described in Clause 11 of Section XIX. for the imposition of penalties for the breach of such Rules and Regulations, and for prescribing the manner in which, and the persons by whom, breaches of such Rules and Regulations shall be inquired into or be cognizable.

Courts, &c., to take judicial notice of Rules and Regulations made under this Act.

XXVII. All Courts and Magistrates shall take judicial notice of all Rules and Regulations made under Section XVII., or Section XXV.

Effects of Rules, &c., made under Section XVII. of this Act in respect of Regulations, &c., previously in force.

XXVIII. Whenever in any Military Cantonment, Rules and Regulations have been made under Section XVII., so much of any Regulation or Act as may be held to empower the Commanding Officer to make local Regulations regarding matters other than Military shall cease to have any effect in such Cantonment, and all local Regulations for any Military Cantonment which may have been made before the promulgation of the Rules and Regulations for such Cantonment made under the said Section XVII., shall cease to have any effect.

Proviso.

Provided that nothing in this Section shall be held to interfere with any Military authority vested in the said Commanding Officer under the Articles of War.

Penalty for the unauthorized sale of spirituous liquor, &c., to certain persons in Cantonments.

XXIX. If within any Military Cantonment, or within any limits around such Cantonment prescribed by the Local Government, any person not amenable to the Articles of War, or any Sutler, or Camp-Follower, shall knowingly barter, sell, or supply, or offer or attempt to barter, sell, or supply any spirituous liquor, wine, or intoxicating drug to, or for the use of any European Soldier, or to or for the use of any European or Eurasian being a Camp-Follower or a Soldier's wife, without a written license from the Officer Commanding or from some person having sufficient authority from the Officer Commanding to grant such license, the person so bartering, selling, or supplying, or offering or attempting to barter, sell, or supply such spirituous liquor, wine, or intoxicating drug as aforesaid, shall be liable on conviction to a fine not exceeding one hundred Rupees, or, in the discretion of the Magistrate, to imprisonment with or without hard labour, for any period not exceeding three months, or in lieu of such fine or imprisonment to the punishment of whipping, as prescribed for offences under Section II. of Act VI. of 1864 (*to authorize the punishment of whipping in certain cases*), subject to all the provisions of that Act.

Spirituous liquor, &c., to be confiscated in certain cases.

XXX. If any person convicted of an offence under the last preceding Section shall be again convicted of an offence under that Section, any spirituous liquor, wine, or intoxicating drug within such Cantonment or limits, which at the time of the commission of such subsequent offence shall belong to or be in the possession of such person, shall, without further proof, be deemed to be in the possession of such person for the purpose of being supplied to European Soldiers contrary to the provisions of this Act, and shall be liable to be seized and confiscated.

Penalty on certain persons having in their possession within Cantonments more than a certain quantity of spirituous liquor, &c., without a permit.

XXXI. If any Camp-Follower or Military Pensioner, or the wife or the widow of any Soldier, Camp-Follower, or Military Pensioner shall, within such Cantonment or limits, remove, convey, or have, in his or her possession any quantity of spirituous liquor or wine exceeding one seer or quart, without a permit, to be signed by the Officer in Command, or such other Officer as may be appointed by him to grant permits under this Act, every such person shall be liable upon conviction to a fine not exceeding fifty Rupees, and for any subsequent offence to a fine not exceeding one hundred Rupees, or to imprisonment with or without hard labour, for any term not exceeding three calendar months: provided that nothing in this Section contained shall apply to any liquor brought into a Cantonment for the private use of any Commissioned Officer.

Arrest of persons committing offence under Sections XXX. or XXXI., and seizure of spirituous liquor, &c., in their possession.

XXXII. If any person subject to the provisions of this Act shall be found committing any offence contrary to Section XXX. or Section XXXI. of this Act, any Police Officer may immediately without warrant arrest such person, and also seize any spirituous liquor, wine, or intoxicating drug, together with any vessel containing the same, and any thing used for the purpose of removing, conveying, or concealing the same, which may be found in his possession, and shall thereupon without delay take such person, together with the things so seized, before the Cantonment Magistrate or other Officer having jurisdiction to punish the offender.

Confiscation of intoxicating liquor, &c., in respect of which there may be a conviction, or which may be in possession of the party convicted.

XXXIII. In case of a conviction for any offence under Section XXX. or Section XXXI. of this Act, the Cantonment Magistrate, or other Officer, may adjudge any liquor, wine, or intoxicating drug in respect of which the party shall be convicted, and any other spirituous liquor, wine, or intoxicating drug which shall be found in his possession at the time of committing the offence, and any vessel containing the same, together with any thing used for the purpose of conveying, removing, or concealing the same or any part thereof, to be confiscated; and such Magistrate may order the whole or any part or parts of any fine imposed under this Act to be paid, as soon as the same shall be realized, to the person upon whose information such conviction shall take place, or to the Officer who shall have apprehended the offender or seized any of the goods, adjudged to be confiscated.

Property seized under this Act may be detained until party charged with offence is convicted or acquitted.

How to be disposed of.

XXXIV. Any thing seized under Section XXXII., in respect of which any person shall be charged with an offence, may be ordered to be detained until the person in whose possession the same shall have been seized shall be convicted or acquitted of the offence charged. If the person shall be acquitted, any thing so seized shall be restored; if he shall be convicted, such of the things only, if any, as shall not be adjudged by the Cantonment Magistrate or other Officer to be confiscated, shall be restored; the remainder shall be dealt with as confiscated.

Saving of articles sold or supplied for medicinal purposes.

XXXV. The foregoing Sections shall not apply to the sale or supply of any article for medicinal purposes, by recognized Medical Practitioners, Chemists, or Druggists.

Act not to interfere with jurisdiction of Courts Martial, &c.

XXXVI. Nothing in this Act shall interfere with the jurisdiction of Courts Martial, or of Commanding Officers of Cantonments or of Regiments, Corps, or Detachments under Act XXIX. of 1861 (*to consolidate and amend the Articles of War for the Government of the Native Officers and Soldiers in Her Majesty's Indian Army*), or under Act V. of 1863 (*to amend Act XXIX. of* 1861), or with the provisions of any Statute for punishing

mutiny and desertion of Officers and Soldiers in the service of Her Majesty in the East Indies, and the Cantonment Magistrate shall exercise no jurisdiction in respect of such offences.

Proviso.

Provided that when a Cantonment Magistrate or other Officer, not being the Commanding Officer, shall have been vested by the Local Government with power within the limits of any Military Cantonment to dispose of cases under any Rule or Regulation made under Section XVII., it shall not be competent to the Commanding Officer to exercise the powers described in Article 84 of the said Act XXIX. of 1861, in respect of any case arising under such Rule or Regulation, when such Rules and Regulations have been passed for such Cantonment under Section XVII., and penalties shall have been laid down for their infringement. The said Rules and Regulations shall be held to be the Rules and Regulations mentioned in the said Article 84 of the said Act XXIX. of 1861, and so much of the said Article as declares the penalties which may be inflicted for breach of Cantonment Regulations, shall cease from that time to have any effect in such Cantonment.

Certain Acts done by Cantonment Magistrates before the passing of this Act confirmed.

XXXVII. All Acts done previously to the passing of this Act by Cantonment Joint Magistrates, or by persons acting under their authority or otherwise in any Military Cantonment, in pursuance of an order of Government, or which shall have been or shall be ratified by the Executive Government, are hereby confirmed and made valid; and all such Officers and persons as aforesaid are hereby indemnified and discharged from liability in respect of such Acts.

Place of operation of this Act.

XXXVIII. This Act shall, save as hereinafter is provided, extend only to the Presidency of Fort William in Bengal.

Operation of this Act may be extended by order of the Governor General in Council to certain other places.

XXXIX. The provisions of this Act may be extended by order of the Governor General of India in Council to any place under the immediate administration of the Government of India, and to any place in India but not in British India in which British Troops are cantoned.

XL. The provisions of this Act may be extended by order of the Governor of Madras in Council, or by order of the Governor of Bombay in Council, and by order of the Lieutenant-Governor of the Punjab to any part of the territories subject to their respective Governments.

To what places the operation of this Act may be extended by the Governments of Madras, Bombay, or the Punjab.

XLI. The provisions of this Act may be extended by order of the Lieutenant-Governor of Bengal, or by order of the Lieutenant-Governor of the North-Western Provinces, to any part of the territories under their respective Governments not within the Presidency of Fort William in Bengal.

To what places the operation of this Act may be extended by the Government of Bengal, or of the North-Western Provinces.

XLII. Every order issued under Sections XXXIX., XL. or XLI. shall be published in the Official Gazette.

Publication of Orders extending the operation of this Act.

XLIII. If in the Territories not subject to the general Regulations, or in any part of India not subject to the British Government, any person be invested with the powers of a Cantonment Magistrate within the limits of any Cantonment situated in any district or place in which there is no person exercising the powers of a Court of Session, the Governor General of India in Council may direct to what authority the commitments shall be made and by what authority the appeals from the sentences and orders passed by such Cantonment Magistrate shall be heard and determined, and such commitments and appeals shall be heard and determined by such authority in the same manner as if the commitments had been made, or the sentences or orders appealed from had been passed, by a Magistrate within the jurisdiction of a Court of Session. The Governor General of India in Council may also direct by what authority appeals from the sentences and orders passed in cases committed by such Cantonment Magistrate shall be heard and determined; and such appeals shall be heard and determined by such last-mentioned authority in like manner as if the sentences and orders appealed from had been passed by a Court of Sessions.

Authority to which commitments shall be made and appeals preferred if Cantonment be not situate in any district in which there is any person exercising the powers of a Court of Session.

In certain cases powers vested in the Sudder Court under Act XLII. of 1860 to be exercised by such authority as the Governor General in Council shall declare.

XLIV. If a Court of Small Causes shall be established under Section VI. in any Military Cantonment in the Territories not subject to the general Regulations, or in any part of India not subject to the British Government, the Governor General of India in Council shall declare what authority shall exercise the powers vested in the Sudder Court by the provisions of the said Act XLII. of 1860.

In certain cases for purposes of Registration under Act XVI. of 1864, the Governor General of India in Council to declare what authorities to be deemed to be the District Registrar and the Registrar General.

XLV. If any Military Cantonment in any part of India not subject to the British Government shall be declared by the Governor General of India in Council to be a Sub-District for the purposes of Registration under Act XVI. of 1864, the Governor General of India in Council shall declare what authorities shall be deemed to be the District Registrar and the Registrar General respectively with reference to such Military Cantonment and the Deputy Registrar thereof.

Regulations and Acts inconsistent with this Act when to cease to have effect in Cantonments in Madras, Bombay, and the Punjab.

XLVI. From the date on which any Cantonment Magistrate shall begin to exercise jurisdiction under this Act in any Cantonment in the Territories subject to the Government of Madras, or to the Government of Bombay, or to the Lieutenant-Governor of the Punjab, so much of the Regulations and Acts for the time being in force in such part of the said Territories as is in any way inconsistent with or repugnant to any of the provisions of this Act shall cease to have effect in such Cantonment.

SCHEDULE OF REGULATIONS REPEALED.

Number and Date of Act, and extent of Repeal.	*Number and Date of Act, and extent of Repeal.*
BENGAL.	BENGAL.
Regulation III., 1809—Sections II. and III.	Martial for the offence stated. Also Sections XIII., XIV., XV., XVI., XVII., XVIII., and XXI.
Regulation XX., 1810—So much of Section XII. as declares that the persons therein mentioned shall be liable to be tried by a Native Court	Act XVIII. of 1853—The whole Act so far as it relates to the Bengal Presidency.

CUSTOMS DUTIES.

ACT No. XXIII. OF 1864.

[*Received the assent of the G. G. on the 7th April*, 1864.

1. Repeals Act XXVI., 1863; and (2) establishes new import duties.

Repealed by Act XVII. and again by Act XXV., 1865, s. 1.

JHANSI, JALOUN, LULLUTPORE, KUMAON, AND JOUNSAR BAWUR.

ACT No. XXIV. OF 1864.

[*Received the assent of the G. G. on the 8th April*, 1864.

1—3. Legalizes retrospectively proceedings under recited rules, notwithstanding specified defects in the Rules.

4—7. Proceedings in Civil Court to follow Code of Civil Procedure; and (5) suits to be brought in lowest Court competent to try; but (6) Commissioner, &c., may withdraw suit from subordinate Court and try it, &c.; and (7) as to suits for immoveable property in different districts.

8. From what time right of appeal is to run.

9. Extends Act XIV., 1859, to Jhansi, &c.

10—13. Empowers N. W. Government to extend Acts, &c., to Jhansi, &c.; and (11) to declare in what officer, &c., the Civil, Criminal and Revenue administration in Jounsar Bawur of Dehra Dhoon shall be vested; and (12) prescribes what rules such officer shall follow; but Code of Civil Procedure may be extended to that tract.

14. Saves the operation of the I. P. C.

15. Act to come into operation 1st May, 1864.

Preamble.

Whereas certain Rules for the administration of Civil Justice and for the superintendence of the Settlement and of the realization of the Public Revenue and of matters relating to rent in the Districts of Jhansi, Jaloun, and Lullutpore, were made by the Lieutenant-Governor of the North-Western Provinces, and came in operation on the Twenty-eighth day of January and the Seventh day of February, 1862: and whereas the said Rules, so far as they relate to the administration of Civil Justice were afterwards extended by an order of the Lieutenant-Governor of the North-Western Provinces to the Provinces of Kumaon and Gurhwal: and whereas it is expedient to prevent the validity of decisions, orders,

proceedings passed or held under the said Rules being questioned only by reason that the said Rules were not made in accordance with the provisions of the Indian Councils' Act 1861: and whereas it is expedient to make provision for the administration of the Districts and Provinces aforesaid and also of a tract of country in Dehra Dhoon in the North-Western Provinces known as Jounsar Bawur, it is enacted as follows:

Rules relating to jurisdiction and procedure of Revenue Officers, &c., to be deemed valid from date of issue.

I. The Rules made as aforesaid by the Lieutenant-Governor of the North-Western Provinces relating to the jurisdiction and procedure of the Revenue Officers, and for the superintendence of the Settlement and of the realization of the Public Revenue, and of matters relating to rent, within the said Districts of Jhansi, Jaloun and Lullutpore, shall be deemed valid for all purposes from the date on which such Rules were issued. [Abrogated by Act XVIII., 1867, s. 2.]

Rules relating to the administration of Civil Justice to be deemed valid from date of issue until the coming into operation of this Act, and in part to continue of effect after such period.

II. The Rules made as aforesaid by the Lieutenant-Governor of the North-Western Provinces for the administration of Civil Justice within the said Districts, and thereafter extended to the Provinces of Kumaon and Gurhwal, as aforesaid, shall be deemed valid for all purposes from the date on which they were issued until this Act shall come into operation. So much of the said Rules as relates to the establishment of Courts of Civil Judicature, and provides for the trial of suits and appeals by Commissioners, Deputy Commissioners of Districts, Assistant Commissioners, Extra Assistant Commissioners, and Tehsildars, together with so much of the said Rules as relates to the periods of appeal from decisions and orders made by such Courts, shall continue to be in force after this Act shall have come into operation.

Validity given to all decisions, &c., before the coming into operation of this Act.

III. No decision, order, or proceeding of any Court or Officer under any of the said Rules, made and extended as aforesaid by the Lieutenant-Governor of the North-Western Provinces, shall be questioned on the ground of such order, or decision, having been passed, or of such proceeding having been held, before the date fixed for this Act to come into operation.

IV. Except as in this Act is otherwise provided, the proceedings in Civil suits of every description between party and party, brought in the said Courts of Civil Judicature, shall be regulated by the Code of Civil Procedure.

Proceedings in Civil suits how to be regulated.

V. Every suit shall be instituted in the Court of the lowest grade competent to try it.

In what Courts suits to be instituted.

VI. It shall be lawful for the Commissioner or for the Deputy Commissioner of a District to withdraw any suit instituted in any Court subordinate to the Court of such Commissioner or Deputy Commissioner, and to try such suit himself, or to refer it for trial to any other Court subordinate to his authority and competent in respect of the value of the suit to try the same.

Power of Commissioner and Deputy Commissioner as to suits instituted in any subordinate Court.

VII. If the suit be for land or other immoveable property situate within the local limits of the jurisdiction of different Courts, the suit may be brought in any Court otherwise competent to try it, within the jurisdiction of which any portion of the land, or other immoveable property, in suit is situate; but in such case the Court in which the suit is brought shall apply to the Deputy Commissioner of the District if the suit is brought in any Court subordinate to the Deputy Commissioner, or to the Commissioner if the Court in which the suit is brought is the Court of a Deputy Commissioner, for authority to proceed with the same.

Trial of suits for immoveable property situate within the jurisdiction of different Courts.

VIII. The periods of regular and special appeal prescribed in the Rules, which by Section II. of this Act are to continue in force after this Act shall have come into operation, shall be reckoned from and exclusive of the day on which the judgment appealed against shall have been pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree from which the appeal is made. Appeals from orders, when such appeals are allowed by the Code of Civil Procedure, shall be presented within the same period as appeals from decrees.

Periods of appeal how to be reckoned.

IX. Act XIV. of 1859 (*to provide for the limitation of suits*) is hereby extended to the said Districts of Jhansi, Jaloun and Lullutpore, and to the said Provinces of Kumaon and Gurhwal, and

Act XIV. of 1859 extended to certain districts and provinces.

shall take effect therein from the date on which this Act comes into operation, subject to the provision contained in Section XXIV. of the said Act XIV. of 1859, as regards pending suits instituted within two years from the date above mentioned.

Operation of Regulations and Acts may be extended to the same districts and provinces, &c.

X. It shall be lawful for the Lieutenant-Governor of the North-Western Provinces by notification in the Official Gazette, to extend to the said Districts and Provinces the operation of any Regulation or Act now in force in the Districts under his Government, which are subject to the General Regulations, and to declare in whom any authority to be exercised under any Regulation or Act so extended shall be vested.

Administration of justice and collection of Revenue in tract known as Jounsar Bawur in whom to be vested.

XI. The administration of Civil and Criminal Justice, and the superintendence of the settlement and realization of the Public Revenue, and of all matters relating to rent, within the tract of country in the Dehra Dhoon called Jounsar Bawur, are hereby vested in such Officer or Officers as the Lieutenant-Governor of the North-Western Provinces may, for the purpose of tribunals of first instance or of reference and appeal, appoint.

Rules for administration.

XII. The Officer or Officers so appointed shall be guided by the Rules made before the date fixed for this Act to come into operation by the Lieutenant-Governor of the North-Western Provinces under the authority of Act XIV. of 1861 (*to remove certain tracts of country in the Rohilcund Division from the jurisdiction of the tribunals established under the General Regulations and Acts*), for the guidance of the Officers appointed to administer the tracts of country described in the said Act.

Code of Civil Procedure may be extended to certain tracts.

XIII. The Lieutenant-Governor of the North-Western Provinces may, by notification in the Official Gazette, extend the Code of Civil Procedure to the said tract of country known as Jounsar Bawur, and the tracts of country described in the said Act XIV. of 1861.

Such tracts not to be held excluded by this Act or Act XIV. of 1861.

XIV. Nothing in this Act, or in the said Act XIV. of 1861, shall be held to exclude the said tract of country known as Jounsar Bawur, or the

from the operation of the Indian Penal Code.

tracts of country described in the said Act XIV. of 1861, from the operation of the Indian Penal Code.

Operation of Act.

XV. This Act shall come into operation on the First day of May, 1864.

MARRIAGE LAW OF CHRISTIANS.

ACT NO. XXV. OF 1864.

[*Received the assent of the G. G. on the 9th April*, 1864.

1, 2. No person professing the Christian religion to be married except according to this Act, from the First day of July, 1864; that is, (2) by Christian Ministers, Scotch Church Clergymen or Marriage Registrars, Ministers licensed to marry, or certificated persons.

3—5. Repeals the declaration at present required on marriage; and (4) authorizes the issue to Ministers of license to solemnize marriage; and (5) where licenses have been issued all marriages other than by this Act to be void.

6. Saves marriages prior to 1st July, 1864, from consequences of specified defects.

7—14. Prescribes notice of intended marriage to the marrying Officers stating specified particulars; such notice (8) to be published by such Officer, and how and where; and (9) how when marriage is not to be in private dwelling; and (10) what he is to do with this notice when it is for marriage of a minor; and (11) what the Marriage Registrar or (12) the Senior Marriage Registrar is to do with it in such case; and (13) such notice to be certified before marriage is performed; such certificate (14) to be postponed if one party is a minor, &c.

15. Before certificate is issued, one of the parties to appear before Minister and make declaration, &c.

16—18. Makes consent of father or guardian to marriage of minor necessary, and (17) such father, &c., may prohibit the marriage and how; and (18) after prohibition, marriage not to be made till after investigation, &c.

19—22. Directs what is to be done by Minister on application of Native Christian for a certificate, and (20) prescribes form of certificate; and (21) permits marriage in presence of two witnesses after certificate issued; but (22) such certificate to remain in force only two months; after which, new certificate necessary.

23. Saves from operation of these regulations marriage by Minister according to Part I. of this Act.

PART III.

24. Marriage ceremony to be performed between 6 a. m. and 7 p.m., except when under special license.

PART IV.

25—29. Enjoins registration of marriages, except those under the Act of Parliament or Act V., 1852; but registration not necessary to validity of marriage; and (26) prescribes the form of registration when marriage is by Church of England Clergyman; and (27) prescribes quarterly returns to the Archdeaconry Registrar, and (28) same returns when marriage is by Church of Scotland Clergymen; and (29) the mode of registering in other cases.

30. Marriage Register book to be signed by parties and witnesses.

31—33. Certificate of marriage to be sent to Marriage Registrar to be copied in a book; and (32) directs how such copies are to be entered; and (33) what additions are to be made by Registrar.

34, 35. Provides for the custody and disposal of Register book; and (35) for the transmission of specified entries to Secretary of State for India.

36. Provides for the correction of errors.

37. Provides for making searches.

38. Provides respecting fees.

39. Makes certified copy of entry of marriage proof of the facts.

40. Saves from operation of this part of the Act marriage under English Act and Act V., 1852.

PART V. Makes exceptional regulations as to marriage of certain Native Christians.

41—43. Empowers the Local Governments to issue license to issue certificates of marriage for Native Christians to whom Act V., 1852, and the English Act are not suitable; and (42) dispenses with certain requirements of this Act, and establishes the conditions under which such marriages may be made; and (43) entitles the parties to marriage certificate.

44, 45. Local Government may revoke license; (45) such revocation to be gazetted.

46. Makes valid all marriages under Section 42.

47, 48. Prescribes a register book under these provisions; and (48) authorizes searches to be made.

PART VI. *As to Penalties.*

49—57. Extends Penal Code to false oath, declaration, notice or certificate under this Act; and (50) for specified false representation; and (51) for unauthorized person performing marriage ceremony; and (52) for performing ceremony out of legal hours, &c., and (53) for marrying minor after notice; and (54) for Registrars issuing certificates, &c., without publication of notice; and (55) for persons not being Church of England or Scotland Clergymen marrying without publication of notice, &c., and (56) for unlicensed persons granting pretended certificates; and (57) for inserting false entries in Register Book.

58, 59. Gives jurisdiction to try offences against this Act to Court of Session, and in case of European British subjects to the High Courts, &c.; and except as to these (59) the procedure to be according to the Code of Criminal Procedure. All offences under this Act to be bailable.

60. Interprets the words "Church of England," "Church of Scotland."
61. Act to come into operation 1st July, 1864.
Schedule A. Notice of Marriage. B. Registrar's Certificate. C. Form of Register of Marriage. D. Form of Register Book.

Preamble.

Whereas it is expedient to provide further for the solemnization of marriages in India of persons professing the Christian Religion, it is enacted as follows:

PART I.

As to the persons by whom Marriage may be solemnized.

Marriage between persons professing the Christian Religion to be solemnized according to the provisions of this Act.

I. From and after the First day of July, 1864, no marriage between persons, one of whom is a person, or both of whom are persons, professing the Christian Religion, shall be solemnized, except in accordance with the provisions hereafter stated in this Act.

By whom to be solemnized.

II. Marriages may be solemnized in India—

1*st.* By any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies, and customs, of the Church of which such person is a Minister.

2*nd.* By any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies, and customs, of the Church of Scotland.

3*rd.* By, or in the presence of, a Marriage Registrar under the provisions of the Statute 14 and 15 Vic., cap. 40, or of Act V. of 1852 (*for giving effect to the provisions of an Act of Parliament passed in the 15th year of the reign of Her present Majesty, intituled an Act for Marriages in India*) of the Governor General of India in Council.

4*th.* By any Minister of Religion who, under the provisions of this Act, has obtained a license to solemnize marriages.

5*th.* By any person who, with respect to marriages between Native Christians, shall have received under the provisions of Part V. of this Act, a license to grant certificates of marriage.

Declaration and certificate no longer required.

III. From and after the First day of July, 1864, the declaration and certificate required by the Statute 58 Geo. III., cap. 84, and Act XXIV. of

1860 (*for the solemnization of Marriages in India by ordained Ministers of the Church of Scotland*), of the Governor General of India in Council, shall be no longer required.

Licenses to solemnize marriage by whom to be granted.

IV. From and after the First day of July, 1864, the Governor General of India in Council, the Governors of Madras and Bombay in Council, and the Lieutenant-Governors of Bengal, the North-Western Provinces, and the Punjab, shall have authority to grant licenses to Ministers of Religion, to solemnize marriages within the territories subject to such Governor General, Governors, and Lieutenant-Governors respectively.

Marriages solemnized otherwise than according to this Act to be void.

V. From and after the First day of July, 1864, all marriages solemnized in India otherwise than in accordance with the provisions of Sections I. and II. of this Act, shall be null and void.

Marriages already solemnized by certain persons to be deemed valid.

VI. All marriages solemnized in India before the First day of July, 1864, by persons who have not received episcopal ordination, or who have not otherwise received express authority to solemnize such marriages under Acts of Parliament or Acts of the Governor General of India in Council, if not otherwise invalid, shall be deemed valid to all intents and purposes.

PART II.

As to the mode of solemnizing Marriages under this Act.

Notice of intended marriage to whom to be given. Form of notice.

VII. In every case of intended marriage between persons, one or both of whom shall be a person or persons professing the Christian Religion, otherwise than—

1*st.*—Under the provisions of the Statute 14 and 15 Vic., cap. 40, or of the said Act V. of 1852, of the Governor General of India in Council; or

2*nd.*—By a Clergyman of the Church of England according to the rites, rules, ceremonies, and customs, of that Church; or

3*rd.*—By a Clergyman of the Church of Scotland according to the rites, rules, ceremonies, and customs, of that Church; or

4th.—By a person who has received a license to grant certificates of marriage between Native Christians under the provisions of Part V. of this Act.

One of the parties shall give notice in writing according to the form prescribed by the Schedule A to this Act annexed or to the like effect, to the Minister of Religion whom he shall desire to solemnize the said marriage, and shall state therein the name or names, and the profession or condition, of each of the parties intending marriage, the dwelling place of each of them, and the time (not being less than four days) during which each has dwelt there, and the Church, Chapel, or other place of, or generally used for, public worship, or the private dwelling in which the marriage is to be solemnized. Provided that if either party shall have dwelt in the place stated in the notice during more than one calendar month, it may be stated therein, that he or she has dwelt there one month and upwards. Provided also that at any place or Station where there is a Church or Chapel, or other building generally used for public worship, no Clergyman of the Church of England shall solemnize a marriage in a private dwelling or in any place except in such Church, or Chapel, or other building generally used for public worship, unless he has received a special license authorizing him to do so from and under the hand and seal of the Bishop of the Diocese, or from the Commissary of such Bishop. For such special license the Registrar of the Diocese shall be entitled to charge such additional fee as the Bishop of the Diocese may sanction.

Proviso.

VIII. The Minister of Religion to whom such notice shall have been delivered, if he shall be entitled to officiate in the Church, Chapel, or place of, or generally used for, public worship, in which it is intended to solemnize the said marriage, shall publish every notice of marriage received by him, by causing the same to be published and affixed in some conspicuous part of the said Church, Chapel, or place of, or generally used for, public worship, in which it is intended that the said marriage shall be solemnized. If such Minister of Religion shall not be entitled to officiate as a Minister in such Church, or Chapel, or place of, or generally used for, public worship, he shall at his option either return the said notice to the

Publication of such notice.

person delivering the same to him, or shall deliver the same to some other Minister entitled to officiate in such place of worship, who shall thereupon cause the same to be so published and affixed in the said Church, Chapel, or place of, or generally used for, public worship.

Notice of intended marriage in private dwelling.

IX. If it be intended that the marriage shall be solemnized not in a Church, Chapel, or other place of, or generally used for, public worship, but in a private dwelling, the Minister of Religion receiving the notice prescribed in Section VII., shall forward it to the Marriage Registrar of the District, who shall affix the same to some conspicuous place in his own office.

Notice when one of the parties intending marriage is under twenty-one years of age.

X. When one of the parties intending marriage (not being a widow or widower) is under twenty-one years of age, every Minister as aforesaid who shall receive such notice and who shall not forthwith return such notice to the party delivering the same under Section VIII. shall, within twenty-four hours after the receipt by him thereof, send or cause to be sent by the post, or otherwise, a copy of such notice to the Marriage Registrar of the District.

Publication of such notice.

XI. The Marriage Registrar of the District on receiving any such notice shall affix the same to some conspicuous place in his own Office.

Appointment of Senior Marriage Registrar.

XII. If there be more Marriage Registrars than one in any District, the Local Government shall appoint one of such Registrars to be Senior Marriage Registrar, and such notice as aforesaid shall be sent to such Senior Marriage Registrar, who, on receiving the same, shall, besides affixing it in the manner laid down in the last preceding Section, send or cause to be sent a copy of such notice to all the other Marriage Registrars in the same District, who shall likewise affix the same in their own Offices or Churches, Chapels, or places of worship as aforesaid.

Issue of certificate of notice given and declaration made.

XIII. Any Minister of Religion who shall consent or intend to solemnize any such Marriage as aforesaid on being required so to do by or on behalf of the party by whom the notice was given, and upon one of the parties intending marriage making such declaration as is hereinafter required, shall issue under his

hand a certificate of such notice having been given and of such declaration having been made: provided no lawful impediment according to the law of England be shown to the satisfaction of such Minister why such certificate should not issue, and the issue of such certificate shall not have been sooner forbidden in the manner hereinafter mentioned, by any person authorized in that behalf.

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XIV. When by such declaration it appears, or when it is otherwise known to such Minister of Religion, that one of the parties intending marriage, not being a widower or widow, is under twenty-one years of age, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of such notice of marriage.

Certificate in certain cases not to issue until fourteen days after receipt of notice.

XV. Before any such certificate as aforesaid shall be issued by any such Minister, one of the parties intending marriage shall appear personally before such Minister, and shall make a solemn declaration that he or she believes that there is not any impediment of kindred or affinity or other lawful hindrance to the said marriage, and when either or each of the parties, not being a widower or widow, is under the age of twenty-one years, that the consent of the person whose consent to such marriage is required by law has been obtained thereto, or that there is no person resident in India having authority to give such consent, as the case may be.

Declaration to be made before issue of certificate.

XVI. The father, if living, of any party under twenty-one years of age, such party not being a widower or widow, or if the father be dead, the guardian or guardians of the person of the party so under age lawfully appointed, or one of them, and in case there be no such guardian then the mother of such party shall have authority to give consent to the marriage of such party, and such consent is hereby required for the marriage of such party so under age, unless there be no person authorised to give such consent resident in India.

Consent of parent or guardian when necessary.

XVII. Every person whose consent to a marriage is required as aforesaid, is hereby authorised to prohibit the issue of the certificate by any Minister as aforesaid, at any time before the issue of such

What persons may prohibit issue of certificate by notice.

certificate, by notice in writing to such Minister, subscribed by the person authorised as aforesaid, with his name and place of abode, and his or her character in respect of either of the parties, by reason of which he or she is so authorised.

Minister how to proceed on receipt of such notice, &c.

XVIII. If any such notice prohibiting the marriage shall be received by such Minister as aforesaid, he shall not issue his certificate, and shall not solemnize the said marriage until he shall have examined into the matter of the said prohibition, and shall be satisfied that the person prohibiting the said marriage is not authorized by law so to do, or until the notice of the said prohibition be withdrawn by the person who gave the same.

Proceedings before issue of certificate in the case of Native Christians.

XIX. When any Native Christian about to be married takes a notice of marriage to a Minister of Religion, or applies for a certificate from such Minister, such Minister shall, before issuing such certificate, ascertain whether such Native Christian is cognizant of the purport and effect of the said notice or certificate, and if not, shall translate or cause to be translated the said notice or certificate to such Native Christian in the language of such Native Christian, or in some language which he understands.

Form of certificate.

XX. The certificate to be issued by such Minister as aforesaid, may be in the form prescribed by the Schedule B to this Act annexed, or to the like effect.

After issue of certificate, marriage may be solemnized.

XXI. After the issue of the certificate by such Minister of Religion, marriage may be solemnized between and by the parties therein described according to such form or ceremony as such Minister shall see fit to adopt. Provided that it be solemnized in the presence of at least two witnesses.

Certificate to be void if marriage be not solemnized within two months.

XXII. Whenever a marriage is not solemnized within two calendar months after the date of the certificate which shall have been issued by such Minister as aforesaid, such certificate and all other proceedings thereon shall be void, and no person shall proceed to solemnize the said marriage until new notice shall have been given and certificate thereof issued in the manner aforesaid.

Proof of marriage in accordance with the provisions of Part I. of this Act.

XXIII. Provided that whenever any marriage has been solemnized by a Minister of Religion in accordance with the provisions of Part I. of this Act, it shall not be necessary in support of such marriage to give any proof in respect of the dwelling of the parties, or of the consent of any person whose consent is thereunto required by law, or of the notice of marriage, or of the certificate or the translation thereof respectively, or in respect of the hours between which the same may have been solemnized; nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

PART III.

Time for solemnizing Marriages.

Hours between which marriages to be solemnized.

XXIV. Every marriage solemnized in India from and after the First day of July, 1864, by any person who has received episcopal ordination, or by any Clergyman of the Church of Scotland, or by any Minister licensed under this Act to solemnize marriages, shall be solemnized between the hours of six in the morning and seven in the evening. But the provisions of this Section shall not apply to a Clergyman solemnizing a marriage under a special license permitting him to do so at any hour other than between six in the morning and seven in the evening, from and under the hand and seal of the Bishop of the Diocese or from his Commissary. For such special license the Registrar of the Diocese shall be entitle to charge such additional fee as the Bishop of the Diocese may sanction.

Proviso.

PART IV.

As to the Registration of Marriages in India.

Marriages with certain exceptions to be registered as hereinafter prescribed.

XXV. All marriages solemnized in India from and after the First day of July, 1864, between persons both or one of whom shall profess the Christian Religion, except marriages solemnized under the said Statute 14 and 15 Vic., cap. 40, and the said Act V. of 1852 of the Governor General of India in Council, shall be registered in the manner

Proviso.

hereinafter prescribed. Provided that no omission or defect in such registration shall invalidate any marriage not otherwise invalid.

XXVI. to XXXIX. Obsolete.

XL. Nothing contained in this part of this Act shall apply to the Register or certificate of any marriage solemnized under the said Statute 14 and 15 Vic., cap. 40, or the said Act V. of 1852 of the Governor General of India in Council.

These provisions not to apply to Registers or certificates of certain marriages solemnized by Marriage Registrars.

PART V.

As to the Marriage of certain Native Christians.

XLI. And whereas it is expedient to make provision for the marriage of certain Native Christians to whom the provisions of the said Statute 14 and 15 Vic., cap. 40, and the said Act V. of 1852 of the Governor General of India in Council are found not to be suitable, it shall be lawful for the Local Government of any Presidency or place, or the Chief Commissioner of any Province, to issue a license to any person, authorizing him to grant certificates of marriage between Native Christians, being converts from any religion in India.

Provision for marriages of certain Native Christians.

XLII. It shall not be a necessary preliminary to the grant of a certificate by any person licensed under the last preceding Section, that any notice of marriage should have been given by either of the parties to such marriage, or that any certificate should have been issued of any notice having been given under the provisions of the said Act V. of 1852 of the Governor General of India in Council, or otherwise, and every marriage between Native Christians as aforesaid applying for a certificate under this part of this Act, shall be certified under this part of this Act if the following conditions be fulfilled, and not otherwise:—

No notice necessary before marriage but certificate of marriage may be given.

Conditions.

1. The age of the man intending to be married shall exceed sixteen years, and the age of the woman intending to be married shall exceed thirteen years.

2. The man and the woman shall not stand to each other within the prohibited degrees of consanguinity or affinity.

3. Neither of the parties intending to be married shall have a wife or husband still living.

4. In the presence of the person so licensed and of at least two witnesses, each of the parties shall say to the other—

"I call upon these persons here present to witness that I, A. B., in the presence of Almighty God, do take thee, C. D., to be my lawful wedded wife (*or husband*)," or words to the like effect.

5. That such declaration be made between the hours of six in the morning and seven in the evening.

On marriage (the conditions having been fulfilled), licensed person to grant a certificate thereof.

XLIII. When in respect to any marriage falling under this part of this Act, the conditions prescribed in the last preceding Section shall have been fulfilled, it shall be the duty of the person licensed as aforesaid, in whose presence the said declaration shall have been made, to grant a certificate of such marriage on the application of either of the parties to such marriage on the payment of a fee of four annas. Such certificate shall be signed by such licensed person, and shall be received as conclusive evidence of such marriage having been performed, in any suit touching the validity of such marriage, and no evidence to prove the contrary shall be received in any such suit.

XLIV., XLV. Superseded.

Marriages performed under the provisions of Section XLII. to be valid.

XLVI. All marriages performed between Native Christians as aforesaid, in accordance with the provisions of Section XLII. of this Act, shall be good and valid to all intents and purposes.

Register Book to be kept.

XLVII. A Register Book of all marriages of which certificates shall be granted under Section XLIII. of this Act, shall be kept by the person granting such certificates in his own vernacular language. Such Register Book shall be kept according to such form as the Local Government shall from time to time prescribe, and true extracts therefrom, duly authenticated, shall be deposited at such places and at such times as the Local Government shall direct.

Searches to be allowed in the Register Book.

XLVIII. Every person licensed under this Act to grant certificates of marriage, and who shall have the custody of a Marriage Register Book

under the last preceding Section, shall at all reasonable times allow search to be made in such Book in his custody, and shall give a copy certified under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is to say—for every search extending over a period not exceeding two years the sum of eight annas, and two annas additional for every additional year.

XLIX. to end and Schedules. Obsolete and superseded.

Repealed by Act V., 1865, which came into operation 1st May, 1865. Parts possibly affecting any question of the validity of any marriage are retained; the rest, not being of use for reference, and being superseded, are suppressed.

PRESIDENCY TOWNS.—SMALL CAUSE COURTS.

Act No. XXVI. of 1864.

[*Received the assent of the G. G. on the 14th April*, 1864.

Recites the expediency of enlarging the jurisdiction of Small Cause Courts, and increasing the number of the Judges.

1. Interprets words "Local Government," "High Court."

2, 3. Enlarges the jurisdiction to 1,000 Rupees, if cause of action arises or defendant dwells, &c., within local jurisdiction; and (3) empowers the Court to try by agreement cases above 1,000 Rupees, excepting specified ones.

4. Extends Act VII., 1847, to arrears of rent not exceeding 1,000 Rupees

5. Extends the provisions of Act IX., 1850, Section 91, to occupations, &c., where the rent does not exceed 1,000 Rupees.

6—8. Extends to the enlarged jurisdiction all the powers, &c., of the Court under Act IX., 1850; and (7) the power in case of doubt to reserve question for High Court, and if two Judges differ question to be reserved; (8) security for costs to be given by whom in case of reference, unless money is paid into Court, &c

9. If suit brought in High Court for case within Small Cause Court jurisdiction, the plaintiff succeeding is to have no costs, and if the defendant succeeds he is to have costs between Attorney and client, unless Judge certifies to effect specified.

10. In action in High Court against Clerk, &c., of Small Cause Court plaintiff succeeding to have no costs, unless he recovers 1,000 Rupees, or the Judge certifies.

11. Establishes the Fees of Court as per Schedule.

12. Empowers the Local Government, with consent of Government of India, to increase the number of Small Cause Court Judges.
13. Regulates the fees of Counsel and Attorneys.
14. Establishes the rank of First Judge, and gives him powers.
15. Empowers the Local Government, with consent of the Government of India, to extend the Code of Civil Procedure to the Small Cause Courts.
16. This Act and Act IX., 1850, to be construed as one.
Schedules of Fees.

Preamble.

Whereas it is expedient to increase the limit of the jurisdiction of the Courts of Small Causes held under Act IX., 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay*), and to increase the number of Judges of the said Courts, it is enacted as follows:

Interpretation.

I. The words "Local Government" and "High Court," as used in this Act, shall bear respectively the same meaning as the words "Governor in Council" and Supreme Court," as used in the said Act IX. of 1850.

Courts held under Act IX. of 1850 may take cognizance of suits for sums not exceeding one thousand Rupees.

II. The jurisdiction of the Courts held or to be held under the said Act IX. of 1850 shall extend to the recovery of any debt, damage, or demand exceeding the sum of five hundred Rupees but not exceeding the sum of one thousand Rupees, and to all actions in respect thereof (except the several actions specified in the proviso in Section XXV. of the same Act), provided that the cause of action shall have arisen or the Defendant at the time of bringing the action shall dwell or carry on business or personally work for gain within the local limits of the jurisdiction of the Court.

Such Courts may take cognizance of suits for sums exceeding one thousand Rupees, if the parties consent.

III. If both parties shall agree by a Memorandum signed by them or by their Attornies and filed with the Clerk of the Court of Small Causes, that the said Court shall have power to try any action (not included in the proviso in Section XXV. of Act IX. of 1850), in which the debt or damage claimed or value of the property in dispute, whether on balance of account or otherwise, shall exceed the sum of one thousand Rupees, then and in such case the said Court shall have jurisdiction to try such action.

IV. The powers and provisions of Act VII. of 1847 (*to regulate distresses for small rents in Calcutta*) shall be extended to the recovery of all arrears of rent not exceeding one thousand Rupees, and the Judges of the Calcutta Court of Small Causes under Act IX. of 1850 shall be empowered to exercise within their jurisdiction the extended powers of the said Act VII. of 1847: and the said Act shall be construed as if, instead of Calcutta and the Settlement of Fort William in Bengal, the limits of the jurisdiction of the Court had been therein mentioned, and the Judges of the Calcutta Court of Small Causes under Act IX. of 1850, instead of the Commissioners of the Court therein mentioned, and the amount of one thousand Rupees instead of one hundred Rupees, and the forms contained in the Schedule annexed to the said Act VII. of 1847, shall be altered accordingly, and shall refer to Act IX. of 1850, and to this Act instead of to Act VII. of 1847.

Powers under Act VII. of 1847, extended to recovery of arrears of rent not exceeding one thousand Rupees, and the Calcutta Court of Small Causes to exercise such powers.

V. The powers and provisions of Section XCI. of Act IX. of 1850 are hereby extended so as to apply to the case of any person who shall hold or occupy any house, land, or tenement of which the value or the rent payable in respect thereof does not exceed the rate of one thousand Rupees by the year, and the said Section XCI. of Act IX. of 1850 shall be read as if the words "five hundred" were omitted, and the words "one thousand" substituted for them.

Provisions of Section XCI., Act IX., of 1850, extended to tenements not exceeding in value one thousand Rupees.

VI. The several powers and provisions of the said Act IX. of 1850 and all rules, orders and regulations which have been or may be made in pursuance of the said Act shall extend to all debts, damages, and demands which may be sued for in the said Courts exceeding the sum of five hundred Rupees, and to all proceedings and judgments for the recovery of the same, or otherwise in relation thereto respectively, as fully and effectually, to all intents and purposes, as the same respectively are now or may be applicable to debts, damages, and demands within the present jurisdiction of the said Courts.

Provisions of Act IX. of 1850 and all rules, &c., made in pursuance thereof extended to demands under this Act.

In what cases questions to be reserved for the opinion of the High Court.

VII. In any cause of an amount exceeding five hundred Rupees, the Judges of the said Courts of Small Causes shall reserve any question of law or equity or any question as to the admission or rejection of any evidence as to which they shall entertain any doubts, or which they shall be requested by either party to the suit to reserve, for the opinion of the High Court, and shall give judgment contingent upon the opinion of the said High Court, on a case which they shall thereupon be entitled to state to the said Court. If only two Judges sit together and shall differ in opinion, the question on which they differ shall be so reserved.

Security to be given in certain cases when question is reserved for the opinion of the High Court.

VIII. When judgment is given contingent upon the opinion of the High Court, the party against whom such judgment is given shall, unless he be willing to submit to such judgment, forthwith give security to be approved by the Clerk of the Court, for the costs of the reference to the High Court and for the amount of the judgment; provided nevertheless, that such security, so far as regards the amount of the judgment, shall not be required in any case where the Judge of the Court of Small Causes who tried the suit shall have ordered the defendant to pay the amount of such judgment into the hands of the Clerk of the said Court, and the same shall have been paid accordingly; and the said High Court may either order a new trial on such terms as it thinks fit, or may order judgment to be entered for either party as the case may be, and may make such order with respect to the costs of reserving the question and stating the same for their opinion, and otherwise arising thereout or connected therewith, as such High Court may think proper. And all orders made by the High Court under this Section shall be final.

Costs arising from the reserving the question to be at the discretion of the High Court.

No costs in cases brought in the High Court when verdict is for less than a certain amount.

IX. If any action shall after the passing of this Act be commenced in the High Court, for any cause other than those specified in Section C. of Act IX. of 1850, for which a summons might have been taken out from a Court held under the said Act IX. of 1850, or under this Act,

and in which such Court would have had jurisdiction, and if a verdict shall be found for the Plaintiff for a sum less than one thousand Rupees if the said action is founded on contract, or less than three hundred Rupees if it is founded on wrong, the plaintiff shall have judgment to recover such sum only and no costs, and if a verdict shall not be found for the plaintiff, the defendant shall be entitled to his costs as between Attorney and Client, unless in either case the Judge who shall try the case shall certify that by reason of the difficulty, novelty, or general importance of the case, or of some erroneous course of decisions in like cases in the Court of Small Causes, the action was fit to be brought in the High Court.

No costs to be allowed to suit in High Court against Officer of Court held under Act IX. of 1850, if verdict for no more than one thousand Rupees, unless Judge shall certify.

X. If any person shall bring any suit in the High Court in respect of any grievance committed by the Clerk, Bailiff, or Officer of any Court held under Act IX. of 1850, or under this Act, or under color or pretence of the process of the said Court, and upon the trial of the action no greater damages shall be found for the plaintiff than the sum of one thousand Rupees, no costs shall be awarded to the plaintiff in such action, unless the Judge shall certify in Court that the action was fit to be brought in the High Court.

Fees payable in the Courts of Small Causes in suits under this Act.

XI. There shall be payable in the Court of Small Causes at Calcutta, Madras, and Bombay, respectively, in every cause of an amount to which jurisdiction is given to the said Court by this Act, the fees set forth in the Schedule hereto annexed, besides the sum of two annas in each Rupee of the amount sued for, so far as such amount does not exceed five hundred Rupees, and one anna in the Rupee so far as such amount exceeds five hundred Rupees, which fee shall be paid over to the same account as that to which the fees payable under Section XIX. of Act IX. of 1850, are paid over.

Local Governments, with the sanction of the Governor General of India, to appoint as many Judges as may be necessary.

XII. Whereas by Section VIII. of the said Act IX. of 1850, provision is made for the appointment of so many persons as may be necessary, not exceeding three, to be Judges of the said Courts of Small Causes respectively, it is hereby enacted that it shall be lawful for the Local Government, with the previous sanction of the Governor General of India in

Council, to appoint as many persons as may be necessary to be Judges of the said Courts respectively.

Fees payable to Barristers and Attornies in suits tried under this Act.

XIII. The fees to be taken by Barristers at Law and Attornies practising in the said Courts in cases brought within the jurisdiction given by this Act, shall be as follows:—An Attorney shall be entitled to have or recover a sum not exceeding fifty-one Rupees for his fees and costs, and in no case shall any fee exceeding eighty-five Rupees be allowed for employing a Barrister as Counsel in the cause. The expense of employing a Barrister or an Attorney, or both a Barrister and an Attorney, either by plaintiff or defendant, shall not be allowed as costs, unless by order of the Judge, and the Judges of the said Court shall determine in what cases such expenses shall be so allowed.

One of the Judges appointed under Act IX. of 1850, to be styled First Judge; and to arrange the distribution of business among the Judges.

XIV. Of the Judges appointed under Section VIII. of the said Act IX. of 1850, the one who is a Barrister at Law, or Advocate of one of the High Courts of India or of the Court of Session of Scotland, shall be styled the First Judge. The First Judge shall make such arrangements as he shall think fit, with regard to the distribution of the suits and of the general business of the Court among the various Judges thereof; and he may vary such arrangements from time to time.

Code of Civil Procedure may be extended to Small Cause Courts.

XV. The Local Government may, with the sanction of the Governor General of India in Council, declare that the whole or any part or parts of the Code of Civil Procedure shall be applicable to any Court held under Act IX. of 1850, or under this Act; and the procedure prescribed in the said Code, or the part or parts thereof so declared to be applicable shall thereupon be the procedure followed in such Court. Provided that no right of appeal or review shall in any case be given by any declaration made under this Section.

This Act to be read as part of Act IX. of 1850.

XVI. This Act and the said Act IX. of 1850, shall be read and construed as one Act, as if the several provisions in the said Act contained, not inconsistent with the provisions of this Act, were repealed and re-enacted in this Act.

SCHEDULE OF FEES.

Sums not above.	Every Summons or Subpœna.		Warrant.	
Rs.	Rs.	As.	Rs.	As.
600	2	4	6	0
700	2	8	7	0
800	2	12	8	0
900	3	0	9	0
1,000	3	4	10	0

OATHS OF QUALIFICATION, JUSTICES OF THE PEACE.

ACT No. XXVII. OF 1864.

[*Received the assent of the G. G. on the 28th Nov.*, 1864.

Recites conscientious objections to the oaths administered to Justices of the Peace.

1. Repeals Act XVI., Section 1, of 1841.

2. Appoints a new declaration.

3. Directs that the declarations subscribed under this Act shall be sent to Government.

Preamble.

Whereas cases have arisen wherein persons have brought forward conscientious objections to taking the several oaths hitherto administered to Justices of the Peace in order that they may be duly qualified to act under Commissions of the Peace, it is enacted as follows:

Repeal of Section I. of Act XVI. of 1841.

I. Section 1 of Act XVI. of 1841 is hereby repealed.

Justices of the Peace to be capable of acting as such on making certain declarations.

II. All persons who are or shall be nominated and appointed in any Commission of the Peace, shall be capable of acting as Justices of the Peace in every respect according to the terms of such Commission, upon making and

subscribing before any other Justice of the Peace or the Chief Civil Officer of any Station within the places in and for which any such Commission shall have issued, declarations to the following effect:—

"I declare that I will be faithful and bear true allegiance to Her Majesty Queen Victoria."

"I declare that I will truly and faithfully discharge the office of a Justice of the Peace."

III. The subscriptions of such persons to the said declarations shall be deposited and kept with the records in the Home Department of the Office of the Secretary to the Government in the Province wherein such declarations shall have been made.

Subscriptions to such declarations where to be deposited.

PUNJAB.—ABKAREE REVENUE.

ACT No. XXVIII. OF 1864.

[*Received the assent of the G. G. on the 28th Nov.*, 1864.

Recites expediency of extending the Abkaree Laws of Bengal to the Punjab.

1, 2. Empowers the Governor General in Council to extend Act XXI., 1856, to any parts under the control of the Lieutenant-Governor of the Punjab; (2) powers under the Act to be vested in such Courts, &c., as the Lieutenant-Governor, with consent of the Governor General in Council, may appoint.

3. Gives immunity from legal responsibility for acts done before specified date under illegal Government orders.

Whereas it is expedient to empower the Governor General of India in Council to extend the provisions of Act XXI. of 1856 (*to consolidate and amend the law relating to the Abkári Revenue in the Presidency of Fort William in Bengal*), and of Act XXIII. of 1860 (*to amend Act XXI. of* 1856), to any province or place under the control of the Lieutenant-Governor of the Punjab, it is enacted as follows:

Preamble.

I. It shall be lawful for the Governor General of India in Council by notification in the "Gazette of India," to extend all or any of the provisions of the said Act XXI. of 1856 relating to the manufacture of spirits and the sale of spirituous and fermented liquors and intoxicating drugs, and

Provisions of Act XXI. of 1856, and of Act XXIII. of 1860, may be extended to the Punjab.

the said Act XXIII. of 1860, to any of the provinces or any part or parts thereof under the control of the Lieutenant-Governor of the Punjab.

Powers to be exercised under said Acts in what Courts and Officers to be vested.

II. The powers to be exercised under any of the provisions of the said Acts shall be vested in such Courts and Officers as the said Lieutenant-Governor may, with the sanction of the Governor General in Council, appoint for the purpose.

Levy of Duties under said Acts, under orders of Punjab Government, legalized.

III. No proceedings at law shall be taken against any Officer, for any act done or omitted on or after the Eighteenth day of April, 1864, by virtue of any order of the Government of the Punjab heretofore made, directing the levy of any such Duty as is authorized by the said Acts XXI. of 1856 and XXIII. of 1860 to be levied.

ACTS AND REGULATIONS EXTENSION ACT.

Act No. I. of 1865.

[*Received the assent of the G. G. on the 7th Jan.*, 1865.

Recites the expediency of authorising the Executive Governments to extend Regulations to Non-Regulation parts.

1—3. Authorizes the Government of India and (2) Lieutenant-Governor of North-Western Provinces and Lieutenant-Governor of Punjab to extend Acts and Regulations to their Provinces, by notification in Official Gazette; and (3) to define by whom powers shall be exercised, &c.

4. From date of extension all anterior Regulations repugnant, &c., to the same to cease to have effect.

5. Short title of Act as above.

Preamble.

Whereas it is expedient to authorize the Governor General of India in Council and the Lieutenant-Governors of the North-Western Provinces and the Punjab, to extend to Non-Regulation Provinces under the immediate administration of the Government of India, or under the Governments of the Lieutenant-Governor of the North-Western Provinces and the Punjab respectively, certain Acts and Regulations in force at the time of the passing of this Act in parts of British India subject to the General Regulations, it is enacted as follows:

I. From and after the passing of this Act, it shall be lawful for the Governor General of India in Council, from time to time, by notification in the Gazette of India, to extend to any Non-Regulation Province under the immediate administration of the Government of India the operation of any Act or Regulation, or of any portion of any Act or Regulation, in force at the time of the passing of this Act in any part of British India subject to the General Regulations.

Governor General in Council may extend to certain Non-Regulation Provinces Acts and Regulations not in force there at the passing of this Act.

II. From and after the passing of this Act, it shall be lawful for the Lieutenant-Governor of the North-Western Provinces as to the Non-Regulation Provinces under his Government, and for the Lieutenant-Governor of the Punjab as to the Territories under his Government, by notification in the Official Gazette, to extend to such Provinces and Territories respectively, the operation of any Act or Regulation of the Government of India, or of any portion of any such Act or Regulation, in force at the time of the passing of this Act in any part of British India subject to the General Regulations.

Lieutenant-Governors of North-Western Provinces and Punjab may extend to certain Non-Regulation Provinces Acts and Regulations not in force there at the passing of this Act.

III. Whenever the operation of any Act or Regulation or of any portion of any Act or Regulation shall be extended under either of the last two preceding Sections, the Governor General of India in Council or the Lieutenant-Governor making such extension, may direct by whom any powers or duties incident to the provisions applied under such Section shall be exercised or performed, and may make any order which shall be deemed requisite for carrying such provisions into operation.

Power to direct by whom the powers incident to the provisions applied under this Act shall be exercised.

IV. From the date of any such extension, so much of any Rule having the force of law which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with or repugnant to the enactment whose operation shall have been so extended, shall cease to have effect in such Territories.

Repeal of inconsistent Rules.

V. This Act shall be called "The Acts and Regulations Extension Act, 1865."

Short title.

N. W. PROVINCES.—THE RURAL POLICE.

ACT No. II. OF 1865.

[*Received the assent of the G. G. on the 7th Feb.*, 1865.

Recites expediency of providing for the better maintenance of the Rural Police.

1. As to interpretation of words of number.

2, 3. Proprietor of estate may assess house tax not exceeding one Rupee per annum on every house on his estate; and (3) may collect the tax with his rent, in advance, &c.; subject to Act X., 1859, s. 23, c. 3, for unlawful assessments.

4. Extends Reg. IX., 1833, ss. 12, 13, 14, 15, to assessments under this Act.

5. Gives persons aggrieved remedy by petition.

6, 7. Authorizes Collector to assess proprietors to extent of the house assessments, less 10 per cent., irrespective of Municipal assessments; and (7) may alter such assessment with sanction of Government.

8, 9. This Act to apply to Maafee and Nuzerana estates, which may be assessed, at what rate, to a Municipal cess; and (9) times of payment and amount of instalments to be fixed by Government.

10. Assessments to be applied to Village Police, &c., under order of Government.

11, 12. Proprietors to nominate, and Magistrate appoint, village watchmen, &c.; (12) whose duties shall be what.

13—15. Empowers Lieut.-Governor to extend this Act to any part of North-Western Provinces, except as to villages under Act XX., 1856; and (4) Governor General in Council may extend it to Punjab, with same exception; and (15) from date of extension, all rules inconsistent with Act to cease to have operation

Preamb

Whereas it is expedient to provide for the better maintenance of the Rural Police in the Territories under the government of the Lieutenant-Governor of the North-Western Provinces, and elsewhere, it is enacted as follows:

Number.

I. In this Act the singular number includes the plural, and the plural number includes the singular.

Proprietors of estates in Districts affected by this Act may assess and collect house tax.

II. The proprietor of any estate situated in any District to which the provisions of this Act may be extended, shall have authority to assess and collect, for the purposes of this Act, a sum not exceeding one Rupee per annum from the occupant of every house upon such estate. It shall be competent to the Collector of

the District, acting under the orders of the Local Government, to determine what buildings shall be held to be a separate house for the purposes of this Act. [Amended by Act II., 1866, ss. 1 and 2.]

Assessments to be due annually with first instalment of rent.

III. The sum so assessed shall be held to fall due, in advance for the coming Revenue year, with the first instalment of agricultural rents payable in the vicinity in that year, and may be realized under the law for the time being in force in such vicinity relating to the recovery of rent. Provided that no person shall be liable to be ousted from his house for non-payment of any assessment leviable under the last preceding Section. Complaints against proprietors for unlawful collection of such assessments shall be treated as falling under Clause three, Section twenty-three, Act X. of 1859 (*to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal*).

Regulation IX. of 1833, Sections 12 to 15, to apply.

IV. Sections twelve, thirteen, fourteen, and fifteen, of Regulation IX. of 1833 (*to modify certain portions of Regulation VII. of* 1822, *and Regulation IV. of* 1828; *to provide for the more speedy and satisfactory decision of Judicial questions cognizable by Officers of Revenue employed in making Settlements under the above Regulations; for enforcing the production of the village accounts; for the more extensive employment of Native agency in the Revenue Department; and to declare the intent of Section V., Regulation VII., of* 1822, *touching claims to Malikana*), shall be applicable to assessments under this Act.

Persons assessed may petition against assessment, and Collector may abate or remit same.

V. Any person assessed under Section two of this Act may, by petition on unstamped paper, complain to the Collector of the District against such assessment, on the ground of inability to pay the same; and the Collector shall be competent to abate, or wholly to remit, the assessment, if he shall be of opinion that the circumstances of the complainant render such abatement or remission proper.

Collector may assess yearly contribution for purposes of this Act.

VI. It shall be lawful for the Collector, or for any Officer making Settlements of Land Revenue, to assess upon any estate, as aforesaid, a sum to be contributed yearly by the proprietor

for the purposes of this Act, not exceeding the aggregate of the house assessments in any such estate, less ten per cent. Such assessment shall be over and above any Municipal cess or per centage levied on the Land Revenue for similar purposes.

Such assessment may from time to time be altered.

VII. The sum so assessed shall, subject to the sanction of the Local Government, be liable to be altered from time to time in conformity with the foregoing provisions.

Act to apply to Maafee and Nuzerana estates.

VIII. The provisions of this Act shall be applicable to Maafee and Nuzerana estates. Besides the assessments made by the Collector under Section VI. of this Act, it shall be lawful to levy upon the Maafeedars, or (where a sub-settlement shall have been made) on the sub-proprietors, or on the Nuzeranadars, a Municipal cess not exceeding two Rupees twelve annas per cent. of the jumma at which their estates would have been rated if not held under a Maafee or Nuzerana title.

Government to determine how and when assessments to be paid.

IX. The Local Government may determine by what instalments and at what times, the assessments payable under Section VI. and VIII. shall be paid. Any arrear of such assessments may be realized by the same processes and under the same rules as arrears of Land Revenue.

Application of assessments.

X. Assessments realized under this Act shall be appropriated, under the orders of the Local Government, to the payment of the Village Police or to any other purpose connected therewith. Any surplus that may remain shall be at the disposal of the Local Government for sanitary purposes, or any other purpose of general improvement within the District in which the amount is collected.

Persons empowered to nominate Village Watchmen shall do so within fifteen days after occurrence of vacancy.

XI. Every proprietor or other person, in whom the right of nomination of Village Watchmen is vested, shall nominate a fit and proper person within fifteen days of the occurrence of any vacancy in the office of Watchman on his estate; and the person so nominated shall, after due enquiry, be appointed or rejected by the Magistrate of the District at his discretion, or by any Officer authorized by him in that behalf. In default of a

nomination within fifteen days of the occurrence of a vacancy or of the rejection of a nominee, the proprietor or other person in whom the right of nomination is vested shall be held to be guilty of disobedience to lawful authority, and shall be liable, by order of the Magistrate, to a fine not exceeding Rupees fifty, and in default of payment to imprisonment in the Civil Gaol for a period not exceeding one month; and the Magistrate of the District shall proceed to appoint a person to the vacancy.

Village Watchman to perform duties of Policeman under Act V. of 1861, in addition to his other duties.

XII. Any Village Watchman appointed under this Act may be required to perform, within the limits of his village, and in addition to his other duties, any duties required of Police Officers under Act No. V. of 1861 (*for the Regulation of Police*); and he shall be liable to the same penalties for any neglect or disobedience which he would have incurred had he been a Police Officer subject to the provisions of such Act, and guilty of neglect or disobedience, as the case may be.

Power to Government of North-Western Provinces to extend this Act.

XIII. The Lieutenant-Governor of the North-Western Provinces may extend the provisions of this Act to any part of the Territories within his jurisdiction. Provided that this Act shall have no operation in any village to which Act No. XX. of 1856 (*to make better provision for the appointment and maintenance of Police Chowkeydars in Cities, Towns, Stations, Suburbs, and Bazaars, in the Presidency of Fort William in Bengal*), or any other special Municipal Law shall have been extended, so long as such Act or Law shall continue in force in such village.

Power to Governments of India and of the Punjab to extend this Act.

XIV. Subject to the proviso contained in the last preceding Section, the Governor General of India in Council may extend the provisions of this Act to any Province under the immediate administration of the Government of India. Subject to the like proviso, the Lieutenant-Governor of the Punjab may also extend the provisions of this Act to any part of the Territories under his Government.

Repeal of inconsistent Rules.

XV. From the date of any such extension, so much of any Rule having the force of law which shall be in operation in the Territories to which such

extension shall have been made, as shall be inconsistent with or repugnant to this Act, shall cease to have effect in such Territories.

Amended by Act II., 1866, ss. I., II.

THE CARRIERS' ACT, 1865.

ACT No. III. OF 1865.

[*Received the assent of the G. G. on the 14th Feb.*, 1865.

Recites expediency of enabling Common Carriers to limit their liability, and of defining their liability, &c.

1. Name of Act—"The Carriers' Act, 1865."

2. Interprets words—Common Carrier; Person; and Nouns of Number.

3—5. Relieves Carrier of liability for loss or damage to scheduled property of more than 100 Rupees, unless value declared; and (4) Carrier may charge higher rates for such property, if notice given in prescribed manner; and (5) is to return money paid for carriage where liability for loss attaches.

6, 7. As to descriptions of property not named in Schedule, Carrier's liability not to be limited by public notice, but may be by special contract except of Carriers under Act XXII., 1863; who (7) shall be liable only for loss or damage caused by negligence, or a criminal act of themselves or servants.

8, 9. Saves liability of all Carriers in all cases for loss or damage arising from negligence, or criminal act of the Carrier or his servants; and (9) in actions against Carriers, plaintiff needs not prove the loss to have been by negligence or criminal act.

10. Nothing in this Act to affect Act XVIII., 1854, ss. 9, 10, 11.

SCHEDULE.

Preamble.

Whereas it is expedient, not only to enable Common Carriers to limit their liability for loss of or damage to property delivered to them to be carried, but also to declare their liability for loss of or damage to such property occasioned by the negligence or criminal acts of themselves, their servants or agents, it is enacted as follows:

Short Title.

I. This Act may be cited as "The Carriers' Act, 1865."

Interpretation Clause.

II. In this Act, unless there be something repugnant in the subject or context—

"Common Carrier."

"Common Carrier" denotes a person, other than the Government, engaged in the business of transporting for hire property from place to place, by land or inland navigation, for all persons indiscriminately.

"Person."

"Person" includes any association or body of persons, whether incorporated or not.

Number.

Words in the singular number include the plural, and words in the plural include the singular.

Carriers not to be liable for loss of certain goods above 100 Rupees in value, unless delivered as such.

III. No Common Carrier shall be liable for the loss of or damage to property delivered to him to be carried exceeding in value one hundred Rupees and of the description contained in the Schedule to this Act, unless the person delivering such property to be carried, or some person duly authorized in that behalf, shall have expressly declared to such Carrier or his agent the value and description thereof.

For carrying such property, payment may be required at rates fixed by Carrier.

IV. Every such Carrier may require payment for the risk undertaken in carrying property exceeding in value one hundred Rupees and of the description aforesaid, at such rate of charge as he may fix, provided that to entitle such Carrier to payment at a rate higher than his ordinary rate of charge, he shall have caused to be exhibited in the place where he carries on the business of receiving property to be carried, notice of the higher rate of charge required, printed or written in English and in the vernacular language of the country wherein he carries on such business.

Proviso.

The person entitled to recover in respect of property lost or damaged may also recover money paid for its carriage.

V. In case of the loss of or damage to property exceeding in value One hundred Rupees and of the description aforesaid, delivered to such Carrier to be carried, when the value and description thereof shall have been declared and payment shall have been required in manner provided for by this Act, the person entitled to recover in respect of such loss or damage shall also be entitled to recover any money actually paid to such Carrier in consideration of such risk as aforesaid.

In respect of what property liability of Carrier not limited or affected by public notice.

VI. The liability of any Common Carrier for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any public notice;

but any such Carrier, not being the owner of a railroad or tramroad constructed under the provisions of Act XXII. of 1863 (*to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken*), may, by special contract, signed by the owner of such property so delivered as last aforesaid or by some person duly authorized in that behalf by such owner, limit his liability in respect of the same.

Carriers, with certain exceptions, may limit liability by special contract.

VII. The liability of the owner of any railroad or tramroad constructed under the provisions of the said Act XXII. of 1863, for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any special contract; but the owner of such railroad or tramroad shall be liable for the loss of or damage to property delivered to him to be carried only when such loss or damage shall have been caused by negligence or a criminal act on his part or on that of his agents or servants.

Liability of owner of railroad or tramroad constructed under Act XXII. of 1863, not limited by special contract.

In what case owner of railroad or tramroad answerable for loss or damage.

VIII. Notwithstanding anything hereinbefore contained, every Common Carrier shall be liable to the owner for loss of or damage to any property delivered to such Carrier to be carried where such loss or damage shall have arisen from the negligence or criminal act of the Carrier or any of his agents or servants.

Common Carrier liable for loss or damage caused by neglect or fraud of himself or his agent.

IX. In any suit brought against a Common Carrier for the loss, damage, or non-delivery of goods entrusted to him for carriage, it shall not be necessary for the plaintiff to prove that such loss, damage, or non-delivery was owing to the negligence or criminal act of the Carrier, his servants or agents.

Plaintiffs, in suits against Common Carriers, for loss, damage, or non-delivery, not required to prove negligence or criminal act.

X. Nothing in this Act shall affect the provisions contained in the Ninth, Tenth, and Eleventh Sections of Act No. XVIII. of 1854 (*relating to Railways in India*).

Saving of provisions of Sections 9, 10, and 11 of Act XVIII. of 1854.

SCHEDULE.

Gold and Silver Coin.
Gold and Silver in a manufactured or unmanufactured state.
Precious Stones and Pearls.
Jewellery.
Time Pieces of any description.
Trinkets.
Bills and Hundis.
Currency Notes of the Government of India, or Notes of any Bank, or Securities for payment of money, English or Foreign.
Stamps and Stamped paper.
Maps, Prints, and Works of Art.
Writings.
Title Deeds.
Gold or Silver Plate or Plated articles.
Glass.
China.
Silk in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials.
Shawls and Lace.
Cloths and tissues embroidered with the precious metals or of which such metals form part.
Articles of ivory, ebony, or sandal-wood.

ADMINISTRATOR-GENERAL'S ACT, 1865.

ACT NO. IV. OF 1865.

[*Received the assent of the G. G. on the 22nd Feb.*, 1865.

Recites provisions of Act VIII., 1855, and Sections 21 of the Regimental Debts Act, 1863.

1. Interprets words "Officer," "Soldier."

2. Act VIII., 1855, Section 26, not to apply to specified cases, and Administrator-General not to have his commission on funds previously administered in respect of preferential charges.

3. Act named the "Administrator-General's Act, 1865."

Preamble.

Whereas under or by virtue of the twenty-sixth Section of Act No. XXXVII. of 1855 (*to amend the Law relating to the Office and Duties of Adminis-*

trator-General), the Administrator-General of each of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay is entitled to receive a commission at the rates respectively therein mentioned upon the amount or value of the assets which he shall collect and distribute in due course of administration: and whereas by the twenty-first Section of "The Regimental Debts Act, 1863," it is declared that an Administrator-General shall not be entitled to take, and it shall not be lawful for him to take, a per centage on the property of an Officer or Soldier dying on service exceeding three *per centum* on the gross amount coming to his hands if preferential charges have been previously paid, or on the gross amount remaining in his hands after payment by him of preferential charges, as the case may be, it is enacted as follows.

I. In this Act—

Interpretation Clause. "Officer."

The term "Officer" means a Commissioned Officer of Her Majesty's Army or of Her Majesty's Indian Army.

"Soldier."

The term "Soldier" means a Soldier of Her Majesty's Army or European Soldier of Her Majesty's Indian Army, including a Warrant and a Non-Commissioned Officer.

Act VIII. of 1855, Section 26, not to apply to property of Officers and Soldiers dying on service which shall come to hands of Administrator-General.

II. From and after the passing of this Act, the twenty-sixth Section of Act No. VIII. of 1855 shall not apply to cases in which the property of an Officer or Soldier dying on service shall come to the hands of the Administrator-General of any of the said Presidencies, under the ninth or the twelfth Section of "The Regimental Debts Act, 1863;" and such Administrator-General shall not be entitled to take, and it shall not be lawful for him to take, a per centage on any such property exceeding three *per centum* on the gross amount coming to his hands after the passing of this Act, if preferential charges, as defined by the fourth Section of the said Statute, have been previously paid, or on the gross amount remaining in his hands after payment by him of such charges, as the case may be.

Administrator-General only entitled to a commission of three per cent. on gross amount of such property.

III. This Act shall be called "The Administrator-General's Act, 1865." Short Title.

Repealed by Act XXIV., 1867, the Administrator-General's Act, 1867.

THE INDIAN MARRIAGE ACT, 1865.

ACT NO. V. OF 1865.

[*Received the assent of the G. G. on the 23rd Feb.*, 1865.

Recites expediency of providing a further marriage law for Christians.

1—3. Preliminary. Name of the Act, the "Indian Marriage Act, 1865;" (2) Act to commence on 1st May, 1865, and extend to all territories vested by 21 and 22 Vic., c. 106; and (3) repeals Act XXV., 1864, from 1st May, 1865.

4. Interpretation of the terms Church of England, Anglican, Church of Scotland, Church of Rome, Roman Catholic, Church, Minor, Native Christians, Section, Month, Year, Local Government.

PART I.—*As to persons by whom Marriage may be solemnized*, 5—10.

5, 6—9. Directs by what persons marriage may be solemnized, viz., (6) episcopally ordained Ministers, Scotch Church Clergymen, Marriage Registrars, Licensed Ministers; and (9) makes void all marriages not solemnized according to this Act.

7. Dispenses with the Declaration and Certificate required by 58 Geo. 3, c. 84, and Act XXIV., 1860.

8. Authorizes Local Government to grant licenses to Ministers to solemnize marriage.

9. *Supra.*

10. Gives validity to marriages solemnized before 1st May, by certain persons not legally competent.

PART II.—*As to the mode of solemnizing Marriages under this Act*, 11—27.

11—18. In all marriages under the 14 and 15 Vic., c. 40, or Act V., 1852, or by episcopally ordained, or Scotch Church Clergyman, or by licensed person, notice in Form A of Schedule shall be given, to whom, stating what, &c.; which notice (12) shall be published, where and how, and (13) what is to be done with it if the marriage is to be in private dwelling; and (14) if one of the persons be a Minor, to be sent to District Marriage Registrar; or (16) Senior District Marriage Registrar, who (15) shall do what with it; which notice (17) shall, if required, be certified, &c.; but (18) certificate not to be issued for 14 days if one party be a Minor.

19. Declaration to be made before issue of certificate, that there is no legal impediment, &c., to marriage.

20—22. Consent of parent or guardian necessary in case of minor not being a widow or widower; and (21) person whose consent is necessary may prohibit the marriage; and (22) after prohibition case to be examined, &c.

23, 24. Special proceeding in case of Native Christians, and (24) form of certificate to be issued.

25, 26. Authorizes the marriage, but in presence of two witnesses, and (26) within two months.

27. Saves from these Regulations marriages under Part I. of this Act.

PART III.—*As to time for solemnizing Marriages.*

28. To be solemnized only between 6 a.m. and 7 p.m., except by special license, or by Roman Catholic Priests under general or special license.

PART IV.—*As to the Registration of Marriages in India,* 29—46.

29—34. All marriages, except under Act of Parliament, or Act V., 1852, to be registered, but defect of registration not to invalidate marriage; (30) how by Church of England Clergymen; who (31) are to make specified returns to Registrar of Archdeaconry; and (32) how and by whom in case of marriage by Roman Catholic Priests, and as to returns; and (33) save as to marriages by Church of Scotland Clergymen; and (34) save as to marriages by episcopally ordained persons who have no official charge.

35—38. Entries in Register Book to be signed and attested; and (36) certificate to be sent to the District or Senior Registrar, who shall keep copy; (37) such copies to be filed with number of by Marriage Registrar; and (38) sent to Local Government.

39—43. Directs as to custody of original Register Book; and (40) as to transmission of returns of certain marriages to England; and (41) provides for correction of errors; and (42) for the right of making searches and obtaining copies; and (43) as to appropriation of fees.

44. Makes certified copies proof for, &c.

45. Saves from operation of this Part, registers or certificates of marriages not under this Act.

46. Christians alone to be appointed Marriage Registrars under this Act.

PART V.—*As to the Marriage of Native Christians,* 47—53.

47—50. Authorizes Government to license persons to grant certificates for marriages; and (48) certificate shall be granted, if (1) the man be sixteen, the woman thirteen years of age, and (2) they are not within the prohibited degrees of consanguinity, (3) and are single, and (4) make prescribed marriage declaration, (5) between 6 a.m. and 7 p.m.; and (49) certificate, &c., obtained, being signed, shall be conclusive evidence of such marriage; and (50) all marriages so performed shall be valid.

51, 52. Register Book of such marriages to be kept; and (52) copies of entries to be given.

53. These rules not to apply to marriages between Roman Catholics.

PART VI.—*As to Penalties*, 54—66.

54—63. Extends Indian Penal Code, s. 193, to false oath, declaration, notice, or certificate, for purpose of procuring marriage; and (55) Indian Penal Code, s. 105, to assuming to forbid marriage knowingly without personal right; and (56) Indian Penal Code, s. 105, to unauthorized persons solemnizing marriage; and (57) to solemnizing marriage at other than legal hours or without witnesses; except (58) under license from church authority; and (59) to solemnizing marriage of minor; and (60) to Registrars for issuing certificates of marriage without compliance with the provisions of Act; and (61) to authorize persons, not being clergymen, &c., solemnizing marriage, without previous notice, or after certificate has expired, or issuing certificate after marriage has been legally forbidden; and (62) to unlicensed person issuing certificate; and (63) to offences against Register Book.

64—66. Extends Code of Criminal Procedure as to offences, and (66) all proceedings under this Act, saving (64) rights of European British subjects; and gives Supreme Court of Judicature in Straits' Settlements jurisdiction as to all offences under this Act.

SCHEDULES. A. Notice of Marriage. B. Registrar's Certificate. C. Form of Register of Marriages. D. Ditto under Section 34.

Preamble.

Whereas it is expedient to provide further for the solemnization of marriages in India of persons professing the Christian Religion, it is enacted as follows:

Preliminary.

Short Title.

I. This Act may be cited as "The Indian Marriage Act, 1865."

Extent and commencement of Act.

II. This Act shall extend to all the Territories that are or shall become vested in Her Majesty or her successors by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India," and shall commence and come into operation on the First day of May, 1865.

Act XXV. of 1864 repealed.

III. From and after the commencement of this Act, Act No. XXV. of 1864 (*to provide further for the solemnization of marriages in India for persons professing the Christian Religion*) is repealed except as to the recovery and application of any penalty for any offence which shall have been committed before such commencement.

Interpretation clause.

IV. In this Act, unless there is something repugnant in the subject or context—

"Church of England." "Anglican."

"Church of England" and "Anglican" mean and apply to the United Church of England and Ireland as by law established.

"Church of Scotland."

"Church of Scotland" means the Church of Scotland as by law established.

"Church of Rome." "Roman Catholic."

"Church of Rome" and "Roman Catholic" mean and apply to the Church which regards the Pope of Rome as its spiritual head.

"Church."

"Church" shall include any Chapel or other building generally used for public Christian worship.

"Minor."

"Minor" means a person who has not completed the age of twenty-one years.

"Native Christians."

"Native Christians" includes the Christian descendants of Natives of India converted to Christianity as well as such converts.

"Section."

"Section" means a Section of this Act.

"Month" "Year."

"Month" and "Year" respectively mean month and year reckoned according to the British calendar.

"Local Government."

And, in any part of British India in which this Act shall operate, "Local Government" shall mean the person authorized to administer Executive Government in such part.

PART I.

As to the person by whom Marriage may be solemnized.

Marriage between Christians to be solemnized according to the provisions of this Act.

V. From and after the commencement of this Act no marriage between persons, one or both of whom shall profess the Christian Religion, shall be solemnized, unless in accordance with the provisions of the next following Section.

By whom to be solemnized.

VI. Marriages may be solemnized in India—

1. By any person who has received episcopal ordination, provided that the marriage be solemnized according to the

rules, rites, ceremonies and customs of the Church of which such person is a Minister.

2. By any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of Scotland.

3. By, or in the presence of, a Marriage Registrar under the provisions of the Statute 14 and 15 Vic., cap. 40, or of Act V. of 1852 (*for giving effect to the provisions of an Act of Parliament passed in the 15th year of the reign of Her present Majesty intituled an Act for Marriages in India*) of the Governor General of India in Council.

4. By any Minister of Religion who, under the provisions of this Act, has obtained a license to solemnize marriages.

5. By any person who, with respect to marriages between Native Christians, shall have received, under the provisions of Part V. of this Act, a license to grant certificates of marriage.

Declaration and certificate no longer required.

VII. From and after the commencement of this Act, the declaration and certificate required by the Statute 58 Geo. III., cap. 84, and Act XXIV. of 1860 (*for the solemnization of marriages in India by ordained Ministers of the Church of Scotland*) of the Governor General of India in Council, shall be no longer required.

Licenses to solemnize marriage by whom to be granted.

VIII. From and after the commencement of this Act the Governor General of India in Council, the Governors of Madras and Bombay in Council, the Governor of the Settlement of Prince of Wales' Island, Singapore and Malacca, and the Lieutenant-Governors of Bengal, the North Western Provinces, and the Punjab, shall have authority to grant licenses to Ministers of Religion, to solemnize marriages within the Territories under the immediate administration of such Governor General, or subject to such Governors and Lieutenant-Governors respectively, and to revoke such licenses, whether they shall have been granted before or shall be granted after the passing of this Act.

Marriages solemnized otherwise than according to this Act to be void.

IX. From and after the commencement of this Act, all marriages which shall be solemnized in India otherwise than in accordance with the provisions of the Fifth and Sixth Sections shall be null and void.

X. All marriages which shall have been solemnized in India before the commencement of this Act by persons who have not received episcopal ordination, or who have not otherwise received express authority to solemnize such marriages under Acts of Parliament or Acts of the Governor General of India in Council, shall, if not otherwise invalid, be deemed valid to all intents and purposes.

Marriages solemnized before First May, 1865, by certain persons to be deemed valid.

PART II.

As to the mode of solemnizing Marriages under this Act.

XI. In every case of intended marriage between persons, one or both of whom shall profess the Christian Religion, otherwise than—

Notice of intended marriage.

I. Under the provisions of the said Statute 14 and 15 Vic., cap. 40, or of the said Act V. of 1852; or

II. By a Clergyman who has received episcopal ordination, according to the rights, rules, ceremonies and customs of the Church to which he belongs; or

III. By a Clergyman of the Church of Scotland, according to the rites, rules, ceremonies and customs of that Church; or

IV. By a person who has received a license to grant certificates of marriage between Native Christians under the provisions of Part V. of this Act—

One of the persons intending marriage shall give notice in writing, according to the form contained in the Schedule A to this Act annexed, or to the like effect, to the Minister of Religion whom he or she shall desire to solemnize the marriage, and shall state therein the name or names, and the profession or condition, of each of the persons intending marriage, the dwelling place of each of them, and the time (not being less than four days) during which each has dwelt there, and the Church or private dwelling in which the marriage is to be solemnized. Provided that if either of such persons shall have dwelt in the place stated in the notice during more than one month, it may be stated therein that he or she has dwelt there one month and upwards. Provided also that at any place or Station where there is a Church, no Clergyman of the Church of England shall solemnize a marriage in a private dwelling or

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in any place except in such Church, unless he shall have received a special license authorizing him to do so from and under the hand and seal of the Anglican Bishop of the Diocese, or from the Commissary of such Bishop. For such special license the Registrar of the Diocese shall be entitled to charge such additional fee as the said Bishop may sanction.

Publication of such notice.

XII. The Minister of Religion to whom such notice shall have been delivered, if he shall be entitled to officiate in the Church in which it is intended to solemnize the said marriage, shall publish every notice of marriage received by him, by causing the same to be published and affixed in some conspicuous part of the same Church. If such Minister of Religion shall not be entitled to officiate as a Minister in such Church, he shall at his option either return the said notice to the person delivering the same to him, or shall deliver the same to some other Minister entitled to officiate therein, who shall thereupon cause the same to be so published and affixed as aforesaid.

Notice of intended marriage in private dwelling.

XIII. If it be intended that the marriage shall be solemnized in a private dwelling, the Minister of Religion, on receiving the notice prescribed in the XI. Section, shall forward it to the Marriage Registrar of the District, who shall affix the same to some conspicuous place in his own Office.

Notice when one of the persons intending marriage is a minor.

XIV. When one of the persons intending marriage (not being a widow or widower) is a Minor, every such Minister as aforesaid who shall receive such notice, and who shall not forthwith return it to the person delivering the same under the XII. Section, shall, within twenty-fours hours after the receipt by him thereof, send or cause to be sent by the Post, or otherwise, a copy of such notice to the Marriage Registrar of the District.

Publication of such notice.

XV. The Marriage Registrar of the District on receiving any such notice shall affix the same to some conspicuous place in his own Office.

Appointment of Senior Marriage Registrar.

XVI. If there be more Marriage Registrars than one in any District, the Local Government shall appoint one of such Registrars to be Senior Marriage Registrar, and such notice as aforesaid shall

be sent, to such Senior Marriage Registrar, who, on receiving the same, shall, besides affixing it in the manner laid down in the last preceding Section, cause a copy thereof, to be sent to each of the other Marriage Registrars in the same District, who shall likewise affix the same in their own Offices or Churches, as aforesaid.

Issue of certificate of notice given and declaration made.

XVII. Any Minister of Religion who shall consent or intend to solemnize any such marriage as aforesaid, on being required so to do by or on behalf of the person by whom the notice was given, and upon one of the persons intending marriage making such declaration as is hereinafter required, shall issue under his hand a certificate of such notice having been given and of such declaration having been made: provided that no lawful impediment according to the law of England be shewn to the satisfaction of such Minister why such certificate should not issue, and the issue of such certificate shall not have been sooner forbidden in the manner hereinafter mentioned, by any person authorized in that behalf.

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In case of minority, certificate not to issue until fourteen days after receipt of notice.

XVIII. When by such declaration it appears, or when it is otherwise known to such Minister of religion, that either of the persons intending marriage, not being a widower or widow, is a minor, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of such notice of marriage.

Declaration to be made before issue of certificate.

XIX. Before any such certificate as aforesaid shall be issued by any such Minister, one of the persons intending marriage shall appear personally before such Minister, and shall make a solemn declaration that he or she believes that there is not any impediment of kindred or affinity or other lawful hindrance to the said marriage, and when either or both of the parties, not being a widower or widow, is or are a minor or minors, that the consent of the person or persons whose consent to such marriage is required by law has been obtained thereto, or that there is or are no person or persons resident in India having authority to give such consent, as the case may be.

Consent of parent or guardian when necessary.

XX. The father, if living, of any minor not being a widower or widow, or, if the father be dead, the guardian of the person of such minor, and, in case there be no such guardian, then the mother of such minor, shall have authority to give consent to the minor's marriage, and such consent is hereby required for the same marriage, unless no person authorized to give such consent be resident in India.

What person may prohibit issue of certificate by notice.

XXI. Every person whose consent to a marriage is required as aforesaid, is hereby authorized to prohibit the issue of the certificate by any Minister as aforesaid, at any time before the issue of such certificate, by notice in writing to such Minister subscribed by the person so authorized with his name and place of abode, and his or her position with respect to either of the persons intending marriage, by reason of which he or she is so authorized as aforesaid.

Procedure of Minister on receipt of such notice.

XXII. If any such notice prohibiting the marriage shall be received by such Minister as aforesaid, he shall not issue his certificate and shall not solemnize the said marriage until he shall have examined into the matter of the said prohibition, and shall be satisfied that the person prohibiting the marriage is not authorized by law so to do, or until the said notice be withdrawn by the person who gave it.

Proceedings before issue of certificate in the case of Native Christians.

XXIII. When any Native Christian about to be married shall take a notice of marriage to a Minister of Religion, or shall apply for a certificate from such Minister under the XVII. Section, such Minister shall, before issuing such certificate, ascertain whether such Native Christian is cognizant of the purport and effect of the said notice or certificate, as the case may be, and if not, shall translate or cause to be translated such notice or certificate to such Native Christian into his language, or into some language which he understands.

Form of certificate.

XXIV. The certificate to be issued by such Minister as aforesaid, may be in the form contained in the Schedule B to this Act annexed, or to the like effect.

XXV. After the issue of the certificate by such Minister of Religion, marriage may be solemnized between the persons therein described according to such form or ceremony as the Minister shall think fit to adopt: provided that the marriage be solemnized in the presence of at least two witnesses.

After issue of certificate, marriage may be solemnized.

XXVI. Whenever a marriage is not solemnized within two months after the date of the certificate which shall have been issued by such Minister as aforesaid, such certificate and all other proceedings thereon shall be void, and no person shall proceed to solemnize the said marriage until new notice shall have been given and a certificate thereof issued in the manner aforesaid.

Certificate to be void if marriage be not solemnized within two months.

XXVII. Provided that whenever any marriage has been solemnized by a Minister of Religion in accordance with the provisions of Part I. of this Act, it shall not be necessary in support of such marriage to give any proof in respect of the dwelling of the persons married, or of the consent of any person whose consent to such marriage is required by law, or of the notice of marriage, or of the certificate or the translation thereof respectively, or in respect of the hours between which the same may have been solemnized; nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

Proof of marriage in accordance with the provisions of Part I. of this Act.

PART III.

As to the Time for solemnizing Marriages.

XXVIII. Every marriage solemnized in India from and after the commencement of this Act by any person who has received episcopal ordination, or by any Clergyman of the Church of Scotland, or by any Minister licensed under this Act to solemnize marriages, shall be solemnized between the hours of six in the morning and seven in the evening; provided that this Section shall not apply to a Clergyman of the Church of England solemnizing a marriage under a special license permitting him to do so at any hour other than between six in the morning and seven in the evening, from

Hours between which marriages to be solemnized.

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and under the hand and seal of the Anglican Bishop of the Diocese or his Commissary; and it is hereby declared that for such special license the Registrar of the Diocese shall be entitled to charge such additional fee as such Bishop may sanction: provided also that this Section shall not apply to a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six in the morning, when he shall have received a general or special license in that behalf from the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage shall so be solemnized, or from such person as the same Bishop shall have authorized to grant such license.

PART IV.

As to the Registration of Marriages in India.

Marriages with certain exceptions to be registered as hereinafter prescribed.

XXIX. All marriages solemnized in India from and after the commencement of this Act between persons, both or one of whom shall profess the Christian Religion, except marriages solemnized under the said Statute 14 and 15 Vic., cap. 40, and the said Act V. of 1852, shall be registered in the manner hereinafter prescribed: provided that no omission or defect in such registration shall invalidate any marriage not otherwise invalid.

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Registration of marriages solemnized by Clergymen of the Church of England.

XXX. Every marriage solemnized by a Clergyman of the Church of England shall be registered by the Clergyman solemnizing the same in the Register of Marriages of the Station or District in which the marriage shall be solemnized, according to the form contained in the Schedule C to this Act annexed.

Quarterly returns to Archdeaconry.

XXXI. Every Clergyman of the Church of England shall send four times in every year Returns in duplicate, authenticated by the signature of such Clergyman, of the entries in the Register of Marriages solemnized at or in any Station or District at which such Clergyman shall have any spiritual charge, to the Registrar of the Archdeaconry to which he shall be subject or within the limits of which such Station or District shall be situated. Such quarterly Returns shall contain all the entries of marriages contained in the said Register from the First day of January to

the Thirty-first day of March, from the First day of April to the Thirtieth day of June, from the First day of July to the Thirtieth day of September, and from the First day of October to the Thirty-first day of December, of each year respectively, and shall be transmitted by such Clergyman within two weeks from the expiration of each of the quarters above specified. The said Registrar upon receiving the same shall transmit one duplicate to the Secretary to the Local Government.

Registration and Returns of marriages solemnized by Clergymen of the Church of Rome.

XXXII. Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person and according to the form directed in that behalf by the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage shall be solemnized; and such person shall forward quarterly to the Secretary to the Local Government, Returns of the entries of all marriages registered by him during the three months next preceding.

Registration and Returns of marriages solemnized by Clergymen of the Church of Scotland.

XXXIII. Every marriage solemnized by a Clergyman of the Church of Scotland shall be registered by the Clergyman solemnizing the same in a Register of Marriages to be kept by him for the Station or District in which the marriage shall be solemnized, in the form prescribed in the Thirtieth Section for marriages solemnized by Clergymen of the Church of England, and such Clergyman shall forward quarterly to the Secretary to Government, through the Senior Chaplain of the Church of Scotland in the Territory subject to the Local Government, returns similar to those prescribed in the Thirty-first Section for Clergymen of the Church of England of all marriages solemnized by him.

Marriages solemnized by certain persons to be entered in a Register Book and also in a certificate.

XXXIV. After the solemnization of any marriage under this Act by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England nor of the Church of Rome, or by any Minister of Religion licensed under this Act to solemnize marriages, the person solemnizing the same shall forthwith register such marriage in duplicate—that is to say, in a Marriage Register Book to be kept by him for that purpose, according to the form

contained in the Schedule D to this Act annexed, and also in a certificate attached to the Marriage Register Book as a counterfoil.

Such entries to be signed and attested.

XXXV. The entry of such marriage in both the certificate and Marriage Register Book shall be signed by the person by whom the said marriage has been solemnized and also by the persons married, and shall be attested by two credible witnesses who were present at the solemnization of the marriage, and every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the Marriage Register Book.

Such certificate to be forwarded to Marriage Registrar, copied, and transmitted to Government.

XXXVI. The person solemnizing the said marriage shall forthwith separate the certificate from the Marriage Register Book, and transmit it within one month from the time of the solemnization of such marriage to the Marriage Registrar of the District in which the marriage was solemnized, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall cause such certificate to be copied into a book to be kept by him for that purpose, and shall transmit all the certificates which he shall have received during the month, with such number and signature or initials added thereto as are hereinafter required, to the Secretary to the Local Government, together with the certificates from his own Marriage Register Book which he shall transmit under the Twelfth Section of the said Statute, 14 and 15 Vic., cap. 40, but distinct therefrom.

Copies of certificates to be entered and numbered.

XXXVII. Such copies shall be entered in order from the beginning to the end of the said book, and shall bear both the number of the certificate as copied, and also a number to be entered by the Marriage Registrar, indicating the number of the entry of the said copy in the said book, according to the order in which each certificate was received by the said Marriage Registrar.

Registrar to add number of entry of copy to the certificate, and send same to Government.

XXXVIII. The Marriage Registrar shall also add such last-mentioned number of the entry of the copy in the book, to the certificate, with his signature or initials, and shall at the end of every month transmit the same to the Secretary to the Local Government.

XXXIX. The person solemnizing any such marriage as is provided for in part V. of this Act, shall keep safely the said Register Book until the same shall be filled, or if he shall leave the District in which he solemnized the marriage before the said book is filled, shall make over the same to the person who shall succeed to his duties in the said District, who shall keep safely the same, and shall make therein the entries by this Act required to be made in respect of any marriage solemnized by him within the said District; and the person having the control of the book at the time when it shall be filled, shall send the same to the Marriage Registrar of the District, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall send it to the Secretary to the Local Government to be kept by him with the records of his Office.

Custody and disposal of Register Book of marriages solemnized under Part V. of this Act.

XL. The Secretary to the Local Government shall, at the end of every quarter in each year, select from the certificates of marriages forwarded to him during such quarter, the certificates of the marriages of which the Governor General of India in Council may desire that evidence shall be transmitted to England, and forward the same certificates signed by him to the Secretary of State for India, for the purpose of being delivered to the Registrar General of Births, Deaths, and Marriages.

Transmission of certificates of certain marriages to Secretary of State for India.

XLI. Any person charged with the duty of registering any marriage, who shall discover any error to have been committed in the form or substance of any such entry, may, within one month next after the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other credible witnesses who shall respectively attest the same, correct the erroneous entry according to the truth of the case, by entry in the margin without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made, and such person shall make the like marginal entry, attested in the like manner, in the certificate thereof; and in case such certificate shall have been already transmitted to the Secretary

Correction of Errors.

to the Local Government, such person shall make and transmit in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

Searches may be made and copies of certificates given.

XLII. Every person solemnizing a marriage under this Act, and hereby required to register the same, and every Marriage Registrar or Secretary to a Local Government who shall have the custody for the time being of any Register of Marriages, or of any certificate or copies of certificate under this Act, shall at all reasonable times allow searches to be made of any Marriage Register Book, or of any certificate, or duplicate, or copies of certificate in his custody, and shall give a copy under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is, for every search extending over a period of not more than one year the sum of one Rupee, and four annas additional for every additional year, and the sum of one Rupee for every single certificate.

Appropriation of fees.

XLIII. All fees received under the provisions of this Act by a Marriage Registrar or Secretary shall be accounted for and paid over by him to Government, and all fees received by a person solemnizing a marriage, not being a Marriage Registrar, may be retained by such person.

Certified copy of entry in Marriage Register, &c., to be received as evidence of marriage without further proof.

XLIV. Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any Marriage Register or certificate or duplicate certificate required to be kept or delivered under this Act, of any entry of a marriage in such Register, or of any such certificate or duplicate certificate, shall be received as evidence of the marriage purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such Register or certificate, or duplicate copy, or of any entry therein respectively, or of such copy.

These provisions not to apply to Registers or certificates of certain marriages solemnized by Marriage Registrars.

XLV. Nothing contained in this part shall apply to the Register or certificate of any marriage solemnized under the said Statute 14 and 15 Vic., cap. 40, or the said Act V. of 1852.

Marriage Registrars to be Christians and may be appointed *ex-officio*.

XLVI. Every Marriage Registrar hereafter appointed under the provisions of the said Act V. of 1852, shall be a Christian, and may be so appointed either by name or as holding any office for the time being.

PART V.

As to the Marriage of Native Christians.

Power to license persons to grant certificates of marriage between Native Christians.

XLVII. And whereas it is expedient to make provision for the marriage of Native Christians to whom the provisions of the said Statute 14 and 15 Vic., cap. 40, and the said Act V. of 1852, are found not to be suitable, it is further enacted that it shall be lawful for the Local Government, or the Chief Commissioner of any Province, to issue a license to any person being a Christian, either by name or as holding any office for the time being, authorizing him to grant certificates of marriage between Native Christians. Any such license may be revoked by the Government or Chief Commissioner by whom it was granted; and every such grant or revocation shall be notified in the Official Gazette.

Certificate may be given without previous notice of marriage.

XLVIII. It shall not be a necessary preliminary to the grant of a certificate by any person licensed under the last preceding Section, that any notice of marriage should have been given by either of the parties to such marriage, or that any certificate should have been issued of any notice having been given under the provisions of the said Act V. of 1852, or otherwise; and

Conditions.

every marriage between Native Christians as aforesaid, applying for a certificate under this part of this Act, shall be certified under this part of this Act, if the following conditions be fulfilled, and not otherwise:—

1. The age of the man intending to be married shall exceed sixteen years, and the age of the woman intending to be married shall exceed thirteen years.

2. The man and the woman shall not stand to each other within the prohibited degrees of consanguinity or affinity.

3. Neither of the persons intending to be married shall have a wife or husband still living.

4. In the presence of the person so licensed and of at least two credible witnesses, each of the parties shall say to the other—

"I call upon these persons here present to witness that I., A. B., in the presence of Almighty God and in the name of our Lord Jesus Christ, do take thee, C. D., to be my lawful wedded wife (*or husband*)," or words to the like effect.

5. Such declaration shall be made between the hours of six in the morning and seven in the evening.

On marriage (the conditions having been fulfilled), licensed person to grant a certificate thereof.

XLIX. When, in respect to any marriage falling under this part of this Act, the conditions prescribed in the last preceding Section shall have been fulfilled, it shall be the duty of the person licensed as aforesaid, in whose presence the said declaration shall have been made, to grant a certificate of such marriage on the application of either of the parties to such marriage on the payment of a fee of four annas. Such certificate shall be signed by such licensed person, and shall be received in any suit touching the validity of such marriage, as conclusive evidence of the same marriage having been performed, and no evidence to the contrary shall be received in any such suit.

Marriages performed under the provisions of Section 48 to be valid.

L. All marriages performed between Native Christians as aforesaid, in accordance with the provisions of the forty-eighth Section, shall be valid.

Register Book to be kept.

LI. A Register Book of all marriages of which certificates shall be granted under the forty-eighth Section, shall be kept by the person granting such certificates in his own vernacular language. Such Register Book shall be kept according to such form as the Local Government or Chief Commissioner shall from time to time prescribe, and true extracts therefrom duly authenticated shall be deposited at such places and at such times as the Local Government or Chief Commissioner shall direct.

Searches to be allowed in the Register Book.

LII. Every person licensed under this Act to grant certificates of marriage, and who shall have the custody of a Marriage Register Book under the last preceding Section, shall at all reasonable times allow search to be made in such Book in his custody, and shall give a

copy certified under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is to say—for every search extending over a period not exceeding two years the sum of eight annas, and two annas additional for every additional year.

Part V. not to apply to Roman Catholics.

LIII. This part of this Act shall not apply to marriages between Roman Catholics. But nothing herein contained shall be construed to invalidate any marriage contracted between Roman Catholics under the provisions of Part V. of the said No. XXV. of 1864.

PART VI.

As to Penalties.

Punishment for false oath, declaration, notice or certificate, for procuring marriage.

LIV. Whoever intentionally makes any false oath or declaration, or signs any false notice or certificate required by the said Statute 14 and 15 Vic., cap. 40, or the said Act V. of 1852, or by this Act, for the purpose of procuring any marriage, shall be guilty of the offence described in the CXCIII. Section of the Indian Penal Code, and on conviction shall be liable to the punishment prescribed in that Section.

Punishment for forbidding the issue by a Marriage Registrar of a certificate by false representation.

LV. Whoever forbids the issue by a Marriage Registrar of a certificate, by falsely representing himself or herself to be a person whose consent to the marriage is required by law, knowing such representation to be false, shall be guilty of the offence described in the CV. Section of the Indian Penal Code, and shall on conviction be liable to the punishment prescribed in that Section.

Punishment for a person not duly authorized solemnizing a marriage.

LVI. Whoever, not being authorized under the sixth Section to solemnize a marriage shall, from and after the commencement of this Act, in the absence of a Marriage Registrar of the District in which such marriage is solemnized, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall profess the Christian Religion; shall be punished with imprisonment of either description, as defined in the Indian Penal Code, which may extend to ten years, and shall also be

liable to fine; or in lieu of a sentence of imprisonment for seven years or upwards, to transportation for a term of not less than seven years and not exceeding ten years; or if the offender be an European or an American, to penal servitude according to the provisions of Act XXIV. of 1855 (*to substitute penal servitude for the punishment of transportation in respect of European and American Convicts, and to amend the law relating to the removal of such Convicts*).

Punishment for solemnizing a marriage otherwise than between six a.m. and seven p.m. or without witnesses.

LVII. Whoever shall, from and after the commencement of this Act, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall be a person or persons professing the Christian Religion, at any time other than between the hours of six in the morning and seven in the evening, or in the absence of at least two credible witnesses, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine.

Section 57 not to apply to marriages solemnized under licenses.

LVIII. The provisions of the last preceding Section shall not apply to marriages solemnized under special licenses granted by the Anglican Bishop of the Diocese or by his Commissary, nor to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome, when he shall have received the general or special license in that behalf mentioned in the XXVIII. Section.

Punishment for solemnizing marriage when either party is a minor, within a certain time after notice.

LIX. Any Minister of Religion licensed to solemnize marriages under this Act, who shall, within fourteen days after the receipt by him of notice of such marriage, knowingly and wilfully solemnize a marriage when one of the parties to such marriage, not being a widower or widow, is a minor, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine. But the provisions of this Section shall not apply to marriages solemnized between Native Christians under the provisions of Part V. of this Act.

Punishment for Registrars issuing certificates, or solemnizing marriages, without publication of notice, &c.

LX. Whoever, being a Marriage Registrar appointed under the provisions of the said Act V. of 1852, shall knowingly and wilfully issue any certificate for marriage, or solemnize any marriage under the same Act without publishing or affixing in some conspicuous place the notice of such marriage as directed by such Act, or after expiration of two months after a certificate in respect of a marriage, shall have been issued by him, shall solemnize such marriage, or shall, without an order of a competent Court authorizing him to do so, solemnize any marriage when one of the persons intending marriage (not being a widow or widower) is a minor, before the expiration of fourteen days after the receipt of such notice as is required by the same Act, or without sending or causing to be sent by the Post or otherwise a copy of such notice of marriage to the Senior Marriage Registrar of the District, if there be more Marriage Registrars of the District than one, and if he himself be not the Senior Marriage Registrar, or shall issue any certificate, the issue of which shall have been prohibited as in this Act provided by any person authorized to prohibit the issue thereof, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for persons authorized under this Act, but not being Clergymen of the Churches of England, Scotland or Rome, solemnizing marriages without publication of notices, &c.

LXI. Whoever, being a person authorized under the provisions of this Act to solemnize a marriage, and not being a Clergyman of the Church of England solemnizing a marriage after due publication of Banns or under a licence from the Anglican Bishop of the Diocese or a Surrogate duly authorized in that behalf, or not being a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies and customs of that Church, or not being a Clergyman of the Church of Rome solemnizing a marriage according to the rites, rules, ceremonies and customs of that Church, shall knowingly and wilfully issue any certificate for marriage under this Act, or solemnize any marriage between such persons as aforesaid, without publishing or causing to be affixed the notice of such

marriage as directed in Part II. of this Act, or after the expiration of two months, after the certificate shall have been issued by him, or shall knowingly or wilfully issue any certificate for marriage, or solemnize a marriage between such persons, when one of the persons intending marriage, not being a widower or widow, is a minor, before the expiration of fourteen days after the receipt of notice of such marriage, or without sending or causing to be sent by the Post or otherwise a copy of such notice to the Marriage Registrar, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the District; or shall knowingly and wilfully issue any certificate, the issue of which shall have been forbidden under this Act by any person authorized to forbid the issue; or shall knowingly and wilfully solemnize any marriage which shall have been forbidden by any person authorized to forbid the same, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to four years, and shall also be liable to fine.

Punishment for unlicensed person pretending to grant certificate of marriage under Part V.

LXII. Whoever, not being licensed to grant a certificate of marriage under Part V. of this Act, shall grant such certificate intending thereby to make it appear that he is so licensed, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for destroying or falsifying Register Books.

LXIII. Whoever shall wilfully destroy or injure or cause to be destroyed or injured any such Register Book, or any part thereof, or any such authenticated extract therefrom as aforesaid, or shall wilfully insert or cause to be inserted any false entry in any such Register Book or authenticated extract, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to seven years, and shall also be liable to fine.

Jurisdiction to try persons for offences punishable under this Act.

LXIV. Persons tried for offences punishable under this Act shall be tried under the provisions of the Code of Criminal Procedure by the Court of Session as defined in the same Code;

provided that no European British subject shall be liable to be tried for any offence punishable under this Act except before a Judge of the High Court. In every case in which an European British subject shall be charged before a Justice of the Peace or Magistrate at any place beyond the local limits of the ordinary original Civil jurisdiction of the High Court with any offence under this Act, such charge shall be investigated, and the committal and trial for such offence shall be made and held, according to the rules by which the Criminal Procedure of the High Court may from time to time be regulated.

Code of Criminal Procedure applicable to investigations and committals under this Act.

LXV. Except as provided in the last preceding Section, the provisions of the Code of Criminal Procedure shall apply to the investigation and committal in all cases of charges under this Act: provided that a summons shall ordinarily issue in the first instance, and that all offences punishable under this Act shall be bailable.

Supreme Court of Straits' Settlement to try and punish offences under this Act.

LXVI. The Supreme Court of Judicature in the Settlement of Prince of Wales' Island, Singapore and Malacca shall have power to try offences punishable under this Act and committed within the limits of such Settlement. The charge for any such offence shall be investigated and the committals shall be made under the procedure by which such Court shall from time to time be regulated. The penalties (if any) imposed on persons charged as aforesaid shall correspond as nearly as may be with the penalties which might have been imposed on such persons had the Indian Penal Code been then in force in the said Settlement.

Extended by Act XXII., 1866, to the Hydrabad Assigned Districts, and the Cantonments of Secunderabad, Tremengery, and Aurungabad, so far only as regards Christian British subjects.

SCHEDULE A.—(*See Section* 11.)

Notice of Marriage.

To the Reverend John Brown, a Minister of the Free Church of Scotland, at Calcutta.

I hereby give you notice, that a marriage is intended to be had,

within three calendar months from the date hereof, between me and the other party herein named and described (that is to say)—

Names.	Condition.	Rank or Profession.	Age.	Dwelling-place.	Length of Residence.	Church, Chapel, or place of worship, in which the marriage is to be solemnized.	District in which the other party resides when the parties dwell in different Districts.
James Smith.	*Widower.*	*Carpenter.*	*Of full age.*	*16, Clive Street.*	*23 days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*	.....	*Minor.*	*20, Hasting's Street.*	*More than a month.*		

Witness my hand, this *Sixth* day of *July, One thousand eight hundred and sixty-five.*

(*Signed*) *JAMES SMITH.*

(The *Italics* in this Schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another District.)

SCHEDULE B.—(*See Section* 24.)

Registrar's Certificate.

I, the Reverend John Brown, Minister of the Free Church of Scotland at Calcutta, in Bengal, do hereby certify, that on the *Sixth* day of *July,* 1865, notice was duly entered in my Marriage

Notice Book of the marriage intended between the parties therein named and described, delivered under the hand of *James Smith*, one of the parties (that is to say)—

Names.	Condition.	Rank or Profession.	Age.	Dwelling-place.	Length of Residence.	Church, Chapel, or place of worship in which the marriage is to be solemnized.	District in which the other party resides when the parties dwell in different Districts.
James Smith.	*Widower.*	*Carpenter.*	*Of full age.*	16, *Clive Street.*	23 *days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*		*Minor.*	20, *Hasting's Street.*	*More than a month.*		

and that the declaration required by Section nineteen of "The Indian Marriage Act, 1865," has been duly made by the said (*James Smith*).

Date of notice entered *Sixth July*, 1865.
Date of certificate given *Twentieth July*, 1865.

The issue of this Certificate has not been prohibited by any person authorized to forbid the issue thereof.

Witness my hand, this *Twentieth* day of *July, One thousand eight hundred and sixty-five.*

(*Signed*) *JOHN BROWN,*
Minister of the Free Church of Scotland.

This Certificate will be void unless the marriage is solemnized on or before the *Twentieth* day of *September*, 1865.

(The *Italics* in the Schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another District.)

SCHEDULE C.—(*See Section* 30.)

Form of Register of Marriages.

Quarterly Returns
of
MARRIAGES
for

The Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,*

I, Registrar of the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,* do hereby certify, that the annexed are correct copies of the original and Official Quarterly Returns of Marriages within the Archdeaconry

of { *Calcutta,* / *Madras,* / *Bombay,*

as made and transmitted to me for the Quarter commencing the *First* day of *October*, ending the *Thirty-first* day of *December*, in the Year of Our Lord *One thousand eight hundred and sixty-five.*

[*Signature of Registrar.*]

Registrar of the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,*

MARRIAGES solemnized at { *Allahabad,* / *Barrackpore,* / *Bareilly,* / *Calcutta, &c., &c.*

When Married			Names of Parties.		Age.	Condition.	Rank or Profession.	Residence at the time of marriage.	Father's Name and Surname.	By Banns or License.	Signatures of the Parties.	Signatures of two or more Witnesses present.	Signature by whom married.
Year.	Month.	Day.	Christian.	Surname.									

SCHEDULE D.—(*See Section 34.*).

MARRIAGE REGISTER BOOK.

No.	When Married. Day.	Month.	Year.	Names of Parties. Christian.	Surname.	Age.	Condition.	Rank or Profession.	Residence at the time of marriage.	Father's Name and Surname.
1	26th	July	1865	*James* ..	*White* ..	26 *years*	*Widower*	*Carpenter*	*Agra*	*Wm. White.*
				Martha	*Duncan*	17 *years*	*Spinster*	....	*Agra*	*John Duncan.*

Married in the *Free Church of Scotland Church, Agra.*

JOHN YOUNG, Minister of the Free Church of Scotland.

This marriage was solemnized between us..... { *James White* / *Martha Duncan* } In the presence of us { *John Smith.* / *John Green.* }

CERTIFICATE OF MARRIAGE.

No.	When Married. Day.	Month.	Year.	Names of Parties. Christian.	Surname.	Age.	Condition.	Rank or Profession.	Residence at the time of marriage.	Father's Name and Surname.
1	26th	July	1865	*James* ..	*White* ..	26 *years*	*Widower*	*Carpenter*	*Agra*	*Wm. White.*
				Martha	*Duncan*	17 *years*	*Spinster*	....	*Agra*	*John Duncan.*

Married in the *Free Church of Scotland Church, Agra.*

JOHN YOUNG, Minister of the Free Church of Scotland.

This marriage was solemnized between us ..... { *James White* / *Martha Duncan,* } In the presence of us { *John. Smith.* / *John Green.* }

ARMS ACT CONTINUANCE ACT, 1865.

ACT No. VI. OF 1865.

[*Received the assent of the G. G. on the 22nd Feb.*, 1865.

Continues Act XXXI., 1860, till 1st October, 1866.

Repealed by Act VI., 1866, s. 1.

GOVERNMENT FORESTS ACT, 1865.

ACT No. VII. OF 1865.

[*Received the assent of the G. G. on the 24th Feb.*, 1865.

1. Interprets the words Government Forests, Magistrate, Local Government.

2—5. Authorizes the Government to put jungle lands, &c., under provisions of this Act; and (3) to make Rules for management, &c., of Forests, &c.; which Rules (4) may provide for specified matters, that is, the preservation of Forests, &c., the regulation of the use of streams, &c.; the safe custody and felling, &c., of timber; and the regulation of the duties of Forest Officials, &c.; (5) for the infringement of which rules, if not provided for by Act, Government may prescribe fine, &c.

6, 7. Rules to have force of Law when confirmed by Governor General in Council; and (7) all implements used in infringement thereof and produce of, to be confiscated.

8, 9. Empowers Police to arrest person and seize implements used in infringement; such person (9) to be taken before Magistrate, &c.

10. Procuring act to be an offence like doing the act.

11, 12. Empowers Magistrate to proceed to carry out confiscation; and (12) makes vexatious proceedings for confiscation punishable.

13. Procedure in cases under this Act to be according to the Code of Criminal Procedure.

14, 15. Vests the right by confiscation in Her Majesty; (15) Government may call for proceedings and order restitution of property, or remission of the penalty, &c.

16—17. Limits actions for acts done under this Act to three months, and requires one month's previous notice of action; and (17) limits the right to proceed for offences under this Act to six months.

18. Act extends to Bengal, North-Western Provinces, and Punjab, and may be extended by Madras and Bombay Governments to their Territories.

19. Act to be called the "GOVERNMENT FORESTS ACT OF 1865."

Preamble.

Whereas it is expedient that Rules having the force of law should be made from time to time for the better management and preservation of

Forests wherein rights are vested in Her Majesty for the purposes of the Government of India, it is enacted as follows:

I. In this Act unless there is something repugnant in the subject or context—

Interpretation Clause.

"Government Forests" shall mean such land covered with trees, brushwood or jungle, as shall be declared in accordance with the second Section of the Act to be subject to its provisions.

"Government Forests."

"Magistrate" shall mean the Chief Officer charged with the Executive administration of a district or place in criminal matters by whatever designation such Officer is called, and shall include any person invested by the Local Government with the powers of a Magistrate or of a subordinate Magistrate as defined in the Code of Criminal Procedure, with a view to the exercise by him of such powers under this Act.

"Magistrate."

And in every part of British India in which this Act operates, "Local Government" denotes the persons authorized to administer Executive Government in such part, and includes the Chief Commissioner of any part of British India under the immediate administration of the Governor General of India in Council whenever such Chief Commissioner is authorized by the Governor General in Council to exercise the powers of a Local Government under this Act.

"Local Government."

II. The Governor General of India in Council within the Provinces under his immediate administration, and the Local Goverments within the Territories under their control, may, by notification in the Official Gazette, render subject to the provisions of this Act such land covered with trees, brushwood, or jungle, as they may define for the purpose by such notification: provided that such notification shall not abridge or affect any existing rights of individuals or communities.

Governor General in Council and the Local Governments may render certain lands subject to the provisions of this Act.

III. For the management and preservation of any Government Forests or any part thereof in the Territories under their control, the Local Governments may, subject to the confirmation hereinafter mentioned, make Rules in respect of the matters hereinafter declared, and from

Local Governments may make Rules for management and preservation of Forests, and for regulating the conduct of persons employed on them.

time to time may, subject to the like confirmation, repeal, alter, and amend the same. Such Rules shall not be repugnant to any law in force.

What may be provided for by Rules made in pursuance of this Act.

IV. Rules made in pursuance of this Act may provide for the following matters:—

First.—The preservation of all growing trees, shrubs, and plants, within Government Forests, or of certain kinds only—by prohibiting the marking, girdling, felling, and lopping thereof, and all kinds of injury thereto; by prohibiting the kindling of fires so as to endanger such trees, shrubs, and plants; by prohibiting the collecting and removing of leaves, fruits, grass, wood-oil, resin, wax, honey, elephants' tusks, horns, skins, and hides, stones, lime, or any natural produce of such Forests; by prohibiting the ingress into and the passage through such Forests, except on authorized road and paths; by prohibiting cultivation and the burning of lime and charcoal, and the grazing of cattle within such Forests.

Second.—The regulation of the use of streams and canals passing through or coming from Government Forests or used for the transport of timber or other the produce of such Forests —by prohibiting the closing or blocking up for any purposes whatsoever of streams or canals used or required for the transport of timber or Forest produce; by prohibiting the poisoning of or otherwise interfering with streams and waters in Government Forests in such a manner as to render the water unfit for use; by regulating and restricting the mode by which timber shall be permitted to be floated down rivers flowing through or from Government Forests and removed from the same; by authorizing the stoppage of all floating timber at certain Stations on such rivers within or without the limits of Government Forests for the purpose of levying the dues or revenues lawfully payable thereon; by authorizing the collecting of all timber adrift on such rivers, and the disposal of the same belonging to the Government.

Third.—The safe custody of timber the produce of Government Forests—by regulating the manner in which timber, being the produce of Government Forests, shall be felled or converted; by prohibiting the converting or cutting into pieces, or burning of any timber, or the disposal of such timber by sale or otherwise,

by any person not the lawful owner of such timber, or not acting on behalf of the owner; by regulating the manner in which property-marks shall be affixed to timber and other Forest produce in Government Forests; by prohibiting the affixing of property-marks to timber by any person not the owner of the timber or acting on behalf of the owner, so long as such timber shall be within certain territorial limits, or shall be in transit on certain rivers; by prohibiting within certain territorial limits the effacing or alteration of property-marks on timber; by prohibiting, within such limits, the use of the property-marks employed by the Government, or the fraudulent use of the property-marks of private persons; by requiring the registry within certain territorial limits of implements for affixing property marks on timber; by directing the levying of fees for the registration of such implements.

Fourth.—The regulation of the duties of the Government Officers and establishments charged with the management and conservancy of Government Forests, and with the levy of Forest dues and revenues—by prohibiting their engaging in any employment or office other than their duties as public servants; by fixing penalties for the wilful neglect of the Rules laid down for the guidance of such persons in all matters connected with the guarding of the boundaries of the Forests, the marking, girdling, or felling of trees, the marking and passing of timber, the reporting and preventing of offences against the Rules made in pursuance of this Act, and the collecting of Forest dues or revenues.

Power to Local Government to prescribe punishments for infringement of Rules

V. In cases where the penalty of confiscation is not provided by this Act, the Local Government may prescribe punishments for the infringement of Rules made in pursuance thereof, by fine not exceeding five hundred Rupees, and in default of payment of such fine may provide for the imprisonment of the offender for such term as is mentioned in the sixty-seventh Section of the Indian Penal Code.

Rules when confirmed and published to have the force of law.

VI. Such Rules when confirmed by the Governor General in Council and published in the Official Gazette shall have the force of law.

VII. All implements used in infringing any of the Rules made in pursuance of this Act and all timber or other Forest produce, removed or attempted to be removed, or marked, converted, or cut up contrary to such Rules, shall be confiscated.

Confiscation in case of infringement of Rules.

VIII. Any Police Officer or person employed as an Officer of Government to prevent infringement of the Rules made in pursuance of this Act may arrest any person infringing any of such Rules, and may seize any implements used in such infringement, and any timber liable to confiscation under this Act.

Arrest and seizure in case of infringement of Rules.

IX. Any person arrested on the ground that he has committed an infringement of such Rules, shall forthwith be taken before a Magistrate, who may, if he see reasonable cause, order such person to be detained in custody until the case shall have been disposed of.

Procedure in case of arrest.

X. Where the doing of any act is made punishable by this Act, or by any of the Rules to be made in pursuance thereof, with any penalty, the causing or procuring such act to be done shall be punishable in like manner.

The causing or procuring a punishable act to be done is punishable in the same manner as the doing of the act.

XI. When any timber or other property shall be seized as liable to confiscation under this Act, any Magistrate or Officer empowered to enforce penalties under this Act within the district or division of a district wherein the same may be seized, may, upon information, summon the person in possession of such timber or other property, and upon his appearance, or in default thereof, may examine into the cause of the seizure of such timber or other property, and may adjudge the same to be confiscated and sold on account of the Government.

Procedure in respect of property seized as liable to confiscation.

XII. Any Police Officer or Officer of Government who shall vexatiously and unnecessarily seize the goods or chattels of any person under the pretence of seizing property liable to confiscation, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess beyond what is required for the execution of his duty, shall be liable to a fine not exceeding five

Penalty for vexatious seizures and arrests.

hundred Rupees, or to imprisonment of either description as defined in the Indian Penal Code for a term not exceeding three months.

Enforcement of confiscations and penalties under Rules.

XIII. All fines and penalties under the Rules made in pursuance of this Act shall be enforced by a Magistrate in the manner prescribed by the Code of Criminal Procedure, and the Rules therein contained for the trial of cases and for appeals shall be applicable to confiscations adjudged under this Act.

Property on confiscation to vest in Her Majesty.

XIV. When the confiscation of any property shall be adjudged under the last preceding Section, the same shall thereupon belong to and vest in Her Majesty, and a Warrant shall be issued by the Court to a Police Officer directing him to hold the property confiscated at the disposal of the Local Government.

Remission of penalties.

XV. When any confiscation or penalty shall be adjudged under this Act, the Local Governments may, within three months after final judgment, call for the proceedings of the case, and, if they shall see cause, may direct that the seizure or any part thereof be restored, and may remit the penalty or part thereof, and direct that the offender be discharged.

Limitation of suits under this Act.

XVI. No suit or other proceeding shall be commenced against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit or other proceeding and of the case thereof; nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

Period within which charges to be brought.

XVII. No charge of an offence under this Act shall be instituted except within six months after the commission of such offence.

Extent of Act.

XVIII. This Act shall extend to all the Territories under the immediate administration of the Government of India and under the Governments of Bengal, the North-Western Provinces, and the Punjab; and it shall be lawful for the Governors in Council of Madras and Bombay respectively, by notification in the Official Gazette, to extend this Act to the Territories under their respective Governments.

XIX. This Act shall come into operation on the First day of May, 1865, and may be cited as "The Government Forests Act, 1865."

Commencement of Act. Short Title.

BENGAL.—SHERIFF'S INDEMNITY ACT.

ACT NO. VIII. OF 1865.

[*Received the assent of the G. G. on the 24th March*, 1865.

Recites expediency of making valid certain arrests and indemnifying the Sheriff.

1, 2. Makes valid all arrests in execution in the High Court, as if in accordance with Code of Civil Procedure; and (2) gives immunity from all actions on ground thereof.

3. Authorizes Governments of Madras and Bombay to extend the Act to arrests, &c., in their High Courts.

Preamble.

Whereas it is expedient to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original Civil Jurisdiction, and to indemnify the Sheriff of the said High Court and others in respect of such imprisonment, it is enacted as follows:

Arrests, &c., heretofore made to be deemed good, though not in accordance with the Civil Procedure Code.

I. All arrests made subsequently to the establishment of the High Court of Judicature at Fort William in Bengal and before the passing of this Act, in execution of any process issued by the said Court in the exercise of its ordinary original Civil Jurisdiction, and the detention and imprisonment of all persons so arrested, shall for all purposes be deemed to be and always to have been as valid and effectual as if such arrests, detentions, and imprisonments had been in accordance with the provisions of the Code of Civil Procedure.

No suit to lie for any such illegal arrest, &c.

II. No suit or proceeding shall be maintained in any Court on the ground that any such arrest, detention, or imprisonment as referred to in the preceding Section, and thereby made valid and effectual, was illegal or invalid by reason of its not having been

in accordance with the said Code of Civil Procedure, or of the omission of the Sheriff or Deputy Sheriff of the said High Court to conform to any of the provisions of the said Code.

Extension of the Act to the High Courts of Madras and Bombay.

III. The Governor in Council of Fort Saint George, and the Governor in Council of Bombay, may, by an order to be published in the Official Gazettes of Madras and Bombay respectively, extend this Act so as to apply to arrests, imprisonments, and detentions under process issued by the High Court of Judicature at Madras, and the High Court of Judicature at Bombay respectively, on or before the First day of March, 1865. When so extended this Act shall in all respects apply to each of the said High Courts in the same manner as if the names of such Courts had appeared in this Act wherever the name of the High Court of Judicature at Fort William in Bengal appears.

REGISTRATION OF ASSURANCES

ACT No. IX. OF 1865.

[*Received the assent of the G. G. on the 7th March*, 1865.

Recites expediency of amending Act XVI., 1864.

1, 2, 3, 6. Amends Act XVI., Section 10, by addition of words; and (2) Section 13 by addition of a Proviso, saving from operation of Act shares of Joint Stock Companies having immoveable property; and (3) repeals Act XVI., Section 25; and (6) Section 40.

4. Provides for registration of instruments affecting immoveable property situate in more Districts than one.

5. Makes valid Powers of Attorney not executed according to Act XVI., Section 28, on certain conditions.

6. *Supra.*

7. Directs that Abstracts of instruments affecting immoveable property registered with Deputy Registrars shall be forwarded to District Registrars.

8. Empowers Registrar General to appoint the District Registrar to act for him during his absence.

9. Makes this Act part of Act XVI., 1864.

Preamble.

Whereas it is expedient to amend Act No. XVI. of 1864, (*to provide for the Registration of Assurances*), it is enacted as follows:

I. The second sentence of the Tenth Section of Act No. XVI. of 1864 shall be read as if the words "or any other person whom the Registrar General may think proper to appoint" were inserted after the words "Civil jurisdiction of the District."

Addition to Tenth Section of Act XVI. of 1864.

II. The Thirteenth Section of the said Act shall be read as if the following proviso formed part thereof: Provided also that the provisions of this Section shall not apply to any instrument relating to shares in a Joint Stock Company notwithstanding that the assets of such Company shall consist in whole or in part of immoveable property.

Addition to Thirteenth Section of said Act.

III. The Twenty-fifth Section of Act No. XVI. of 1864 is hereby repealed.

Act XVI. of 1864, Section 25, repealed.

IV. Every instrument affecting immoveable property situate in more Districts than one may be presented for registration to the District Registrar of any District in which any part of the property is situate, and it shall be the duty of such Registrar to register the instrument and to forward a copy thereof endorsed with an attestation stating the date on which it was registered, and its number in his Register Book, to the District Registrar of every District in which any other part of such property is situate, as well as to the Deputy Registrars subordinate to himself within the limits of whose jurisdiction any part of the property is situate. The District Registrar, on receiving the copy, shall forward a copy of the same and of the endorsement on the instrument to the Deputy Registrars subordinate to him within the limits of whose jurisdiction any part of the property is situate. Every District Registrar and Deputy Registrar receiving such copy as above, shall register the same in the same manner as if the instrument had been presented to him in the first instance for registration.

Registration of instruments affecting immoveable property situate in more than one District.

V. Every power of attorney not duly executed or attested in compliance with the terms of the Twenty-eight Section of Act XVI. of 1864, shall, at any time within three months after the passing of this Act (but not afterwards), be deemed to be a power duly executed and

Recognition of powers of attorney executed by persons absent from India without exact observance of provisions of Section 28 of Act XVI. of 1864.

attested within the meaning of the same Section, if the Registrar General, or in his absence the Deputy Registrar General, after making such enquiry as he shall think fit, shall have certified upon such power of attorney that he is satisfied with the execution thereof, and that, in his opinion, it should be taken as a power duly executed and attested as aforesaid: provided that this Section shall not apply to any case in which the person who executed the power of attorney shall be still in India.

Act XVI. of 1864, Section 40, repealed.

VI. The Fortieth Section of Act No. XVI. of 1864 is hereby repealed.

Abstracts of instruments affecting immoveable property registered by Deputy Registrars to be forwarded through District Registrars to General Register Office.

VII. An abstract of every original instrument affecting immoveable property registered in the office of any Deputy Registrar shall, with an endorsement showing the date on which it was registered and its number in the Register Book of such Deputy Registrar be forwarded in duplicate within seven days from such date, to the District Registrar, who shall forthwith forward one of such duplicates to the General Register Office, and shall retain the other in his own office, and enter it in a Book corresponding with the Book No. 1, 2, 3, or 4 as described in the Fifty-sixth Section of the said Act No. XVI. of 1864.

Appointment of Deputy Registrar General to perform duties of Registrar General under Sections 26 and 27 of Act XVI. of 1864 during his absence on duty.

VIII. During the absence on duty of the Registrar General from the place where the General Register Office is established, it shall be lawful for him to appoint the District Registrar of such place, or, with the sanction of the Local Government, such other person as he shall think fit, to perform the duties of the Registrar General under the Twenty-sixth and Twenty-seventh Sections of the said Act. A District Registrar so appointed as aforesaid shall perform such duties in addition to his own duties as District Registrar. During such absence as aforesaid, such District Registrar, or other person so appointed, as aforesaid, shall be styled the Deputy Registrar General, and may, in registering any instrument under the said Twenty-sixth Section, use the Seal of the Registrar General.

This Act to be construed with Act XVI. of 1864.

IX. This Act shall be read and taken as part of the said Act No. XVI. of 1864.

Repealed by Act XX., 1866, s. 3.

THE INDIAN SUCCESSION ACT, 1865.

ACT NO. X. OF 1865.

[*Received the assent of the G. G. on the 16th March*, 1865.

Recites expediency of amending and defining the Law of Intestate and Testamentary Succession.

PART I.—*Preliminary*, 1—4.

1—3. Names the Act. (2) Declares it to be the Law for British India in cases of Intestate or Testamentary Succession; and (3) interprets words of Number and Gender, and the words Person, Year, and Month, Immoveable Property, Moveable Property, Province, British India, District Judge, Minor and Minority, Will, Codicil, Probate, Executor, Administrator, Local Government, High Court.

4. Deprives marriage in itself of all effect in vesting or creating any incapacity in respect of the right of property.

PART II.—*Of Domicile*, 5—19.

5. Succession to immoveable property is regulated by the Law of the place where the property is situated, to moveable by the Law of place of domicile, &c. Illustrations.

6. A person can have only one domicile, &c.

7—10. Defines domicile of origin of legitimate child, and posthumous child, and (8) illegitimate child; and (9 and 13) its duration; and (10) the mode of acquiring a new domicile. Explanation.

11. Establishes special mode of acquiring a domicile in India.

12. Representatives of Foreign Government do not acquire a domicile by residence, nor their families or servants.

13. *Supra.*

14—17. The domicile of minor follows that of parent, and (15 and 16) of woman by marriage that of husband, unless judicially separated.

18. Insane person can acquire a new domicile only by following that of another person.

19. In the absence of proof of other domicile, succession to moveable property is regulated by Law of British India.

PART III.—*Of Consanguinity*, 20—24.

20—23. Consanguinity is the relationship of persons from the same stock; it is (21) lineal when it comes in a direct line, as from father and grandfather; collateral (22) when it comes remotely from the same stock, as from the same great grandfather, but immediately from different stocks; and (23) for the purpose of succession relationship is the same, whether through the mother or father, or be of the full or half blood, and children born after father's death have the same relationship.

24. Explains the Table of Consanguinity.

PART IV.—*Of Intestacy*, 25—28.

25—28. A man is intestate as to all property on which his Will does not operate; and (26) such property devolves according to the following rules (27) in case of leaving a widow, &c.; and (28) of leaving no widow, &c.

PART V.—*Of the Distribution of an Intestate's Property*, 29—42.

(*a*) *Where he has left or* (*b*) *not left lineal descendants.*

29—42. Establishes rules of distribution after deducting widow's share among lineal descendants; if (30) lineals be a child or children; if (31) a grandchild or grand-children; or (32) great grand-children or more remote; or (33) lineals of more remote degree, &c.; or (34) if no lineal decendants, but (35) a father; or (36) a mother and brothers, &c.; or (37) a mother and brothers, &c., and children of deceased brother; or (38) a mother and no brothers, &c., but brother's children; or (39) mother alone surviving; and (40) if neither lineal descendants nor father or mother, nor (41) also brother or sister; and (42) abolishes the practice of hotchpot.

PART VI.—*Of the effect of Marriage and Marriage Settlements on Property*, 43—45.

43, 44. Husband and wife respectively to have the same rights in regard to the property of the other dying intestate; and (44) same rule applies if person not domiciled in India marries in India a person domiciled there.

45. Minor's property may be settled on marriage, with approbation of father, &c.

PART VII.—*Of Wills and Codicils*, 46—49.

46. Every person of sound mind and not a minor may make a Will. Explanations, 1 as to married women; 2 as to deaf and dumb; 3 insane persons; 4 as to incapacity from illness, &c.

47. For appointment of Testamentary Guardian.

48. As to Wills caused by fraud, &c.

49. A person competent to make is competent to revoke or alter a Will.

PART VIII.—*Of the Execution of Wills*, 50, 51.

50, 51. Must be by signature or mark by testator or by his direction in his presence, so placed as to show intention, &c.; and must be attested by two witnesses, &c.; and (51) writings referred to in Will may be read as part of the Will.

PART IX.—*Of Privileged Wills*, 52, 53.

52, 53. Defines Privileged Wills, *i. e.*, Wills of soldiers employed in an expedition, &c., and (53) directs what making will constitute such a Will.

PART X.—*Of the Attestation, Revocation, Alteration, and Revival of Wills*, 54—60.

54, 55. Bequest to attesting witness or his wife or husband void; but

attestation to stand good. Explanation; (55) and interested witness of a Will not disqualified to prove it.

56—58. Marriage is revocation of Will when, except Will under a Power; and (57) unprivileged Will revoked only by marriage, or new Will, or tearing it up, &c.; and (58) obliteration, interlineation in Will after execution to have what effect.

59, 60. Privileged Will may be revoked in same manner as unprivileged Will; and (60) shall only be revived by re-execution, or Codicil, &c.

PART XI.—*Of the Construction of Wills*, 61—98.

61—98. All that is required in the wording of a Will is that it makes known the intention of the Testator; and (62) the Court may make enquiry into facts, to any extent necessary to apply the intention; and (63) mistakes in names, &c., not to defeat intention; and (64) context may supply defects of expression; and (65) if thing can be identified, partially inapplicable description may be rejected; and (66) limits the application of this rule, and words liable to rejection may be considered as struck out of Will; and (67) evidence may be taken to apply unambiguous words admitting of several applications; but (68) not to apply patent ambiguity; and (69) the meaning of any Clause is to be collected from the entire Will, &c.; *e. g.* (70) general words may be construed in a more restrictive and restricted words in a more general sense; and (71) of two meanings that is to be preferred which has some effect; and (72) no part is to be rejected; and (73) the same words every where to be interpreted in same sense; and (74) intention to prevail partially rather than not at all; and (75) of parts irreconcileable the last is to prevail; and (76) what is void for uncertainty; and (77) description of subject of gift to apply to property at time of death; and (78) general words of description to include all property coming within the description, &c.; and (79) if power of appointment is not exercised, property to go in equal shares to all within the power; and (80) as to bequests to "heirs," "right heirs," "relations," "nearest relations," "family," "kindred," "nearest of kin," "next of kin;" and (81) "representatives," "legal representatives," "personal representatives," "executors or administrators," &c.; and (82) the whole interest to pass if not restricted; and (83) as to alternative bequests; and (84) as to bequests such as to "A and his children," "A and his brother," &c.; and (85) to persons under a general description; and (86) on the construction of the terms "children," "grand-children," &c., and such words include a child in the womb, if afterwards born; and (87) words of relationship apply only to legitimate relations; and (88) as to the operation of two bequests to same person; and (89) as to residuary legacies; and (90) the property within them; and (91) as to the time of legacies vesting; and (92—98) the lapse of legacies and the disposal of lapsed.

PART XII.—*Of Void Bequests*, 99—105.

99—105. When void for misdescription of legatee; and (100) when for non-existence of legatee, &c., &c.; and (101 and 102) when the limitations extend

to beyond a life, and the minority of next taker; and (103) void if contingent on void bequests taking effect; and (104) bequests for accumulation of interest not to take effect; and (105) restricts bequests to charitable uses, if testator has near relations specified.

PART XIII.—*Of the Vesting of Legacies*, 106—108.

106—108. When to vest, if payment, &c., is postponed; (107) if payment, &c., is contingent; (108) if to a class, on members attaining specified age.

PART XIV.—*Of Onerous Bequests*, 109, 110.

109, 110. If legacy is accepted burden is accepted; but (110) of separate and independent legacies, an onerous one may be refused and the other accepted.

PART XV.—*Of Contingent Bequests*, 111, 112.

111, 112. Limits the time within which contingency must happen for contingent legacy to take effect; and (112) qualifies the contingency when it relates to persons surviving.

PART XVI.—*Of Conditional Bequests*, 113—124.

113, 114. Bequest void, if condition be impossible; or (114) contrary to law, &c.

115—117. Substantial performance of condition precedent sufficient; and (116) if Bequest contingent on failure of prior condition, failure in manner contemplated not necessary, unless (117) by Will, manner of failure be essential.

118, 119. Makes Bequests over subject to Rules in Sections 107 to 114 and 116, 117; and (119) in bequests over on condition, the condition must be strictly fulfilled.

120. Invalidity of ulterior bequest does not affect the original bequest.

121—124. Bequest may be made to become void on condition subsequent; provided (122) the condition be a legal one; and (123) legatee not to have benefit of legacy over on condition, if he himself makes the condition impossible, &c.; and (124) conditions to happen in specified time, must happen within the time.

PART XVII.—*Of Bequests with directions as to application or enjoyment*, 125—127.

125—127. In absolute bequests, directions as to application or enjoyment; or (126) mode of benefit to legatee are void; but (127) if bequests be for several distinct purposes, as to some of which it cannot take effect, the bequest so far fails.

PART XVIII.—*Of Bequests to an Executor*, 128.

128. Legatee named as an Executor shall not take the legacy unless he proves the will or act.

PART XIX.—*Of Specific Legacies*, 129—136.

129—133. Defines what is a Specific Legacy and what not; and (130—133) illustrate the definition.

134. Specific Legacy to be retained in specific form, and (136) not to abate with general legacies in case of deficiency of assets, &c.

135. Property not specifically bequeathed to be sold and proceeds invested, &c.

PART XX.—*Of Demonstrative Legacies*, 137, 138.

137, 138. Defines what is a Demonstrative Legacy; and (138) provides for payment, if to come out of fund specifically bequeathed.

PART XXI.—*Of Ademption of Legacies*, 139—153.

139—153. Explains Ademption; (140) does not take effect on demonstrative legacies; but (141—153) does take effect when in cases explained of specific legacies, &c. See Section 166.

PART XXII.—*Of the payment of Liabilities in respect of the subject of a Bequest*, 154—157.

154—157. Legatee takes specific legacy subject to burden upon it, when; but (155) testator's title to thing specifically bequeathed to be completed at expense of estate; and (156) as to charge of rent; and (157) of call on share or stock.

PART XXIII.—*Of Bequests of things described in General Terms*, 158.

158. Thing to be purchased for Legatee by Executor.

PART XXIV.—*Of Bequests of the Interest or Produce of a Fund*, 159.

159. Bequest of the interest, &c., of a Fund, will pass the Fund, when.

PART XXV.—*Of Bequests of Annuities*, 160—163.

160—163. Annuity created by Will, is for life, unless limited; and (161) if to be provided for out of property, Legatee may have either the property or annuity; and (162) annuity to abate, when; but (163) annuity to be satisfied before residuary.

PART XXVI.—*Of Legacies to Creditors and Portioners*, 164—166.

164—166. Legacy to a Creditor not to be adeemed in satisfaction of debt, except when; and (165) legacy to child to be in addition to portion, except when; and (166) bequest not to be adeemed by subsequent settlement.

PART XXVII.—*Of Election*, 167—177.

167—169. Under what circumstances election must be made; and (168) lays down rule; and (169) explains extent of rule.

170—172. A bequest for a man's benefit operates as a bequest to himself; but (171) election need not be made if no direct benefit be taken; and (172) person taking in one character a benefit may elect in another character to take in opposition to the Will.

173—176. As to what constitutes an election, and as to constructive election.

177. A person under disability not put to elect till disability ceases.

PART XXVIII.—*Of Gifts in contemplation of Death*, 178.

178. May be made of moveable property, and defines such gifts, which are resumable, or fail, when.

PART XXIX.—*Of Grant of Probate and Letters of Administration*, 179—207.

179. Executor or Administrator is legal representative, and all the deceased's property vests in him.

180—188. Probate may be issued on copy of Will if originally proved in foreign jurisdiction, but (181) can be granted only to Executor; whose appointment (182) may be express or by necessary implication; and (183) cannot be granted to a Minor; but (184) may be granted to several; and (185) may be granted of Codicil afterwards, when, &c., and (186) if Probate be to several, the representative survives; and (187) without Probate or Letters of Administration no right under Will can be established; and (188) Probate establishes the right of the Executor from the death of Testator.

189—192. Letters of Administration not to be granted to Minor, &c.; and (190) no right to property of Intestate can be established without Letters, &c.; and (191) Letters granted take effect retrospectively from death, &c.; except (192) as to intermediate acts to disadvantage of estate.

193—195. As to grant of Letters of Administration if Executor has not renounced; and (194) as to how Executor may renounce; and (195) if he renounces or does not accept, &c., Letters of Administration may be issued.

196—199. If no Executor be appointed by Will, Probate may be granted to residuary Legatee, &c., and (197) if he has a beneficial interest his representative may succeed him; and (198) as to how in case there be neither Executor nor residuary Legatee, &c.; but (199) Letters not to be granted to Legatee except residuary, till after citation of next of kin.

200—207. Grant of Letters of Administration in case of intestacy may be as follows: (201) viz., to widow, unless disqualified, &c.; either (202) with or without other person who would be entitled if there were no widow; and (203) if no widow, to person or persons entitled by rules for distribution; and (204) persons standing in equal degree are equally entitled to administration; and (205) husband has same right of administration in regard to wife's estate as wife has to husband's; and (206) may be granted to creditor when; and (207) these rules to be followed, though person interested be domiciled where the Law of Succession differs.

PART XXX.—*Of Limited Grants*, 208—234.

208—234. Of copy, in case of loss of original Will; and (209) in case of no copy existing; or (210) of Will being withheld adversely; or (211) of Will simply not forthcoming; and (212) to the Attorney of absent Executor; and (213) same as to Letters of Administration; if (214) no person present is equally entitled; and (215) grant may be to guardian of Minor; until (216) Minor be 18; and (217) may be to Committee of Lunatic Executor, &c.; and (218) Letters of Administration, &c., may be granted for special purpose; as pending suit touching the validity of Will; and (219, 220) for purpose limited by Executor; or (221) as to property limited; or (222) limited to a suit; and (223) fresh may be granted after twelve months' absence of original grantee; and (224) whenever necessary for preservation of property; and (225) may for reasons be granted to other than the person ordinarily entitled; and (226 and 227) may be granted with an exception whenever the nature of the case requires; and (228) when made with exception, Probate or Administration of the rest may be granted to person ordinarily entitled; and (229) on death of Executor a new representative must be appointed; and (230 and 231) same rules as to estates not fully administered; and (232) errors, &c., in names, &c., in grants, &c., may be corrected; and (233) grant for Codicil subsequently discovered may be added; and (234) for just cause grant, &c., may be revoked.

PART XXXI.—*Of the practice in granting and revoking Probate and Letters of Administration*, 235—264.

235—243. Gives District Judge full jurisdiction for granting, &c., Probates &c., (236) as in Civil Suits; and (237) to order production of testamentary papers, &c.; and (238) procedure to be, as nearly as can be, according to Act VIII., &c.; and (239) before Probate, &c., may interpose for protection of property; and (240) Probate, &c., may be granted in the district in which deceased resided or left property; and (241) gives Judge a discretion as to granting or refusing; and (242) Probate, &c., shall give a conclusive title as against all debtors, &c., to the estate; and (243) shall be granted if applied for as prescibed by this Code.

244, 245—248. Application for Probate shall be by Petition, with the Will annexed, &c.; and (245) a translation of it, verified (see also 248) if not in the English language.

246—249. Application for Letters of Administration to be by Petition, stating what facts, and (247) verified, how; and (249) false verification to be punished under Indian Penal Code.

250. Empowers District Judge with reference to Petitions, to require further evidence on, and issue Citations, &c.

251—253. Authorizes Caveats against grant, in (252) what form; and (253) after Caveat no proceeding to be taken without notice to Caveator.

254, 255. In what form grant of Probate shall be, and (255) in what form Letters of Administration.

256, 257. Administration Bond with sureties to be entered into; which (257) may be assigned.

258. Neither Probate to be granted till seven, nor Letters of Administration till fourteen, clear days after death.

259. Wills to be filed, &c.

260. Grantee of Probate or Letters alone to represent the deceased.

261. In case of litigation respecting grant, proceedings to be in form of a regular suit.

262. Revocation of Probate or Letters not to affect validity of payments made under such Probate, &c.

263, 264. Gives an appeal to High Court against all acts of District Judge, &c.; and (264) gives High Court concurrent Powers with District Judge.

PART XXXII.—*Of Executors of their own wrong*, 265—266.

265, 266. Defines who is; and (266) makes him accountable to rightful executor, &c.

PART XXXIII.—*Of the powers of an Executor or Administrator*, 267—275.

267—272. Defines power of Executor, &c., to sue for causes of action which survive; and (268) rights and liabilities of, as to demands; and states exception; and (269) his power as to property of deceased; and (270) makes all purchases of property of deceased by himself voidable, &c.; and (271) declares the powers of executors to be several; and (272) to survive.

273—275. Administrator of effects unadministered; and (274) administration during minority; and (275) married woman as Executor or Administrator, have all the powers of ordinary Administrator or Executor.

PART XXXIV.—*Of the Duties of an Executor or Administrator*, 276—291.

276—290. Defines the duties of an Executor as to funeral; and Administrator (277) as to filing Inventory and Account, (278) as to realization of property and debts; as to (279) order of payment of charges, &c.; (280) and expenses of Probate, &c.; (281) and of servants' wages; and (282) of creditors; and how (283) when not domiciled in India; and (284) when last mentioned creditor has received part payment out of real estate; and (285) debts of every kind to be paid before legacy; and (286) legacy need not be paid without indemnity against contingent liabilities if there are any; and (287) legacies to abate equally, if estate insufficient to pay all in full; but (288) specific legacy not to abate, except when; and (289) demonstrative legacy to have preference; but (290) an abatement shall be made as between specific legacies.

291. As to what shall be treated as general legacies for purpose of abatement.

PART XXXV.—*Of the Executor's Assent to a Legacy*, 292—297.

292—296. Executor's assent necessary to complete title to legacy; and (293) his assent will devest his interest as executor, except when, and how assent may be; and (294) may be conditional; and (295) his assent necessary to a legacy to himself, &c.; and (296) after assent legacy takes effect from death of testator.

297. Executor not bound to pay, &c., legacy till a year after death.

PART XXXVI.—*Of the Payment and Apportionment of Annuities*, 298—300.

298—300. Annuity commences from death of Testator, if no other time fixed; and (299) due at end of first quarter, if quarterly; and (300) if time fixed for first payment, subsequent ones follow on the anniversary.

PART XXXVII.—*Of the Investment of Funds to provide for Legacies*, 301—308.

301—304. For the payment of life annuity sum must be invested, and how; and (302) for specific legacy, how; and (303) Government annuity shall be purchased, when; and (304) when secured in the hands of residuary legatee.

305—308. If residue is given for life, uninvested part must be invested; and (306) in such securities as Will specifies; (307) at times in discretion of executor, &c.; and (308) as to what is to be done, if legatee be a minor.

PART XXXVIII.—*Of the Produce and Interest of Legacies*, 309—315.

309—315. Legatee of specific legacy entitled to produce from testator's death; and (310) residuary legatee same as to residuary fund; if (311) no time fixed, interests runs from end of one year after death; or (312) from time fixed; at rate (313) of 4 per cent.; (314) interest on arrears does not run within first year; and (315) interest runs from death, if direction given to invest in annuity.

PART XXXIX.—*Of the refunding of Legacies*, 316—326.

316—318. Refund may be required when, if legacy paid under orders of Court; but (317) not if paid voluntarily; and (318) when legatee must resort to the distributaries of the estates instead of the executor.

319, 320. Executor may require refund of legacy for payment of debt of which he had no previous notice; and (320) executor giving same notices as in administration suit, is equally protected by them as in suit.

321—325. As to right of unpaid against paid legatee, if (322) assets were originally sufficient; and (325) if assets were not originally sufficient; and (324) rule as to extent of refund; and (325) no interest payable on refund.

326. After payment of debts and legacies residue to be paid to residuary legatee.

PART XL.—*Of the liability of Executor or Administrator for Devastation*, 327—328.

327, 328. Executor, &c., liable for misapplication of estate; and (328) for loss occasioned by neglecting to get in estate.

PART XLI.—*Miscellaneous*, 329—332.

329. Enacts Schedule of Stamp Duties.

330. Saves rights of Administrator-General.

331. Saves the Hindu and Mahometan Laws of Succession; and excepts Wills made before 1st January, 1866, and saves from Section 4 marriages before same date.

332. Gives the Governor General in Council power to exempt any race, &c., from operation of the Act.

SCHEDULE.

Whereas it is expedient to amend and define the rules of law applicable to Intestate and Testamentary Succession in British India, it is enacted as follows:

Preamble.

PART I.

Preliminary.

I. This Act may be cited as "The Indian Succession Act, 1865."

Short Title.

II. Except as provided by this Act or by any other law for the time being in force, the rules herein contained shall constitute the law of British India applicable to all cases of Intestate or Testamentary Succession.

This Act to constitute the law of British India in cases of Intestate or Testamentary Succession.

III. In this Act, unless there be something repugnant in the subject or context—

Interpretation Clause.

Words importing the singular number include the plural; words importing the plural number include the singular; and words importing the male sex include females.

Number.

Gender.

"Person" includes any Company or Association or body of persons, whether incorporated or not.

"Person."

"Year" and "Month" respectively mean a year and month reckoned according to the British Calendar.

"Year."

"Month."

"Immoveable property" includes land, incorporeal tenements

and things attached to the earth, or permanently fastened to any thing which is attached to the earth.

"Immoveable property."

"Moveable property" means property of every description except immoveable property.

"Moveable property."

"Province" includes any division of British India having a Court of the last resort.

"Province."

"British India" means the Territories which are or may become vested in Her Majesty or her successors by the Statute 21 and 22 Vic., Cap. 106 (*An Act for the better Government of India*), other than the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"British India."

"District Judge" means the Judge of a principal Civil Court of original jurisdiction.

"District Judge."

"Minor" means any person who shall not have completed the age of eighteen years, and "Minority means the status of such person."

"Minor." "Minority."

"Will" means the legal declaration of the intentions of the testator with respect to his property, which he desires to be carried into effect after his death.

"Will."

"Codicil" means an instrument made in relation to a Will, and explaining, altering, or adding to its dispositions. It is considered as forming an additional part of the Will.

"Codicil."

"Probate" means the copy of a Will certified under the seal of a Court of competent jurisdiction, with a grant of administration to the estate of the testator.

"Probate."

"Executor" means a person to whom the execution of the last Will of a deceased person is, by the testator's appointment, confided.

"Executor."

"Administrator" means a person appointed by competent authority to administer the estate of a deceased person when there is no executor.

"Administrator."

And in every part of British India to which this Act shall extend, "Local Government" shall mean the person authorized by law to administer Executive Government in such part; and "High Court" shall mean the highest Civil Court of Appeal therein.

"Local Government." "High Court."

IV. No person shall, by marriage, acquire any interest in the property of the person whom he or she marries, nor become incapable of doing any act in respect of his or her own property which he or she could have done if unmarried.

Interest and powers not acquired nor lost by marriage.

PART II.

Of Domicile.

V. Succession to the immoveable property in British India is regulated by the law of British India, wherever he may have had his domicile at the time of his death. Succession to the moveable property of a person deceased is regulated by the law of the country in which he had his domicile at the time of his death.

Law regulating succession to a deceased persons immoveable and moveable property, respectively.

Illustrations.

(*a*) A, having his domicile in British India, dies in France, leaving moveable property in France, moveable property in England, and property, both moveable and immoveable, in British India. The succession to the whole is regulated by the law of British India.

(*b*) A, an Englishman, having his domicile in France, dies in British India, and leaves property, both moveable and immoveable, in British India. The succession to the moveable property is regulated by the rules which govern, in France, the succession to the moveable property of an Englishman dying domiciled in France, and the succession to the immoveable property is regulated by the law of British India.

VI. A person can only have one domicile for the purpose of succession to his moveable property.

One domicile only affects succession to moveables.

VII. The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled; or, if he is a posthumous child, in the country in which his father was domiciled at the time of the father's death.

Domicile of origin of person of legitimate birth.

Illustration.

At the time of the birth of A, his father was domiciled in England. A's domicile of origin is in England, whatever may be the country in which he was born.

VIII. The domicile of origin of an illegitimate child is in the country in which, at the time of his birth, his mother was domiciled.

Domicile of origin of illegitimate child.

Continuance of domicile of origin

IX. The domicile of origin prevails until a new domicile has been acquired.

Acquisition of new domicile.

X. A man acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.

Explanation.—A man is not to be considered as having taken up his fixed habitation in British India merely by reason of his residing there in Her Majesty's Civil or Military Service, or in the exercise of any profession or calling.

Illustrations.

(*a*) A, whose domicile of origin is in England, proceeds to British India, where he settles as a Barrister, or a Merchant, intending to reside there during the remainder of his life. His domicile is now in British India.

(*b*) A, whose domicile is in England, goes to Austria, and enters the Austrian service, intending to remain in that service. A has acquired a domicile in Austria.

(*c*) A, whose domicile of origin is in France, comes to reside in British India under an engagement with the British Indian Government for a certain number of years. It is his intention to return to France at the end of that period. He does not acquire a domicile in British India.

(*d*) A, whose domicile is in England, goes to reside in British India for the purpose of winding up the affairs of a partnership which has been dissolved, and with the intention of returning to England as soon as that purpose is accomplished. He does not by such residence acquire a domicile in British India, however long the residence may last.

(*e*) A, having gone to reside in British India under the circumstances mentioned in the last preceding illustration, afterwards alters his intention, and takes up his fixed habitation in British India. A has acquired a domicile in British India.

(*f*) A, whose domicile is in the French Settlement of Chandernagore, is compelled by political events to take refuge in Calcutta, and resides in Calcutta for many years in the hope of such political changes as may enable him to return with safety to Chandernagore. He does not by such residence acquire a domicile in British India.

(*g*) A, having come to Calcutta under the circumstances stated in the last preceding illustration, continues to reside there after such political changes have occurred as would enable him to return with safety to Chandernagore, and he intends that his residence in Calcutta shall be permanent. A has acquired a domicile in British India.

Special mode of acquiring domicile in British India.

XI. Any person may acquire a domicile in British India by making and depositing in some office in British India (to be fixed by the Local Government), a declaration in writing under his hand of his

desire to acquire such domicile, provided that he shall have been resident in British India for one year immediately preceding the time of his making such declaration.

Domicile not acquired by residence in a country merely as the representative of a foreign Government, or by residence with him as part of his family, or as a servant.

XII. A person who is appointed by the Government of one country to be its ambassador, consul, or other representative in another country, does not acquire a domicile in the latter country by reason only of residing there in pursuance of his appointment; nor does any other person acquire such domicile by reason only of residing with him as part of his family or as a servant.

Continuance of new domicile.

XIII. A new domicile continues until the former domicile has been resumed, or another has been acquired.

Minor's domicile.

XIV. The domicile of a minor follows the domicile of the parent from whom he derived his domicile of origin.

Exception.—The domicile of a minor does not change with that of his parent, if the minor is married or holds any office or employment in the service of Her Majesty, or has set up, with the consent of the parent, in any distinct business.

Domicile acquired by a woman on marriage.

XV. By marriage a woman acquires the domicile of her husband, if she had not the same domicile before.

Wife's domicile during marriage.

XVI. The wife's domicile during the marriage follows the domicile of her husband.

Exception. The wife's domicile no longer follows that of her husband if they be separated by the sentence of a competent Court, or if the husband is undergoing a sentence of transportation.

Except in cases stated, minor cannot acquire a new domicile.

XVII. Except in the cases above provided for, a person cannot during minority acquire a new domicile.

Lunatic's acquisition of new domicile.

XVIII. An insane person cannot acquire a new domicile in any other way than by his domicile following the domicile of another person.

Succession to a person's moveable property in British India, in absence of proof of his domicile elsewhere.

XIX. If a man dies leaving moveable property in British India; in the absence of proof of any domicile elsewhere, succession to the property is regulated by the law of British India.

PART III.

Of Consanguinity.

XX. Kindred or consanguinity is the connexion or relation of persons descended from the same stock or common ancestor.

Kindred or consanguinity.

XXI. Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grandfather, and great-grandfather, and so upwards in the direct ascending line; or between a man, his son, grandson, great-grandson, and so downwards in the direct descending line. Every generation constitutes a degree, either ascending or descending. A man's father is related to him in the first degree, and so likewise is his son; his grandfather and grandson in the second degree; his great-grandfather and great-grandson in the third.

Lineal Consanguinity.

XXII. Collateral consanguinity is that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other. For the purpose of ascertaining in what degree of kindred any collateral relative stands to a person deceased it is proper to reckon upwards from the person deceased to the common stock and then downwards to the collateral relative, allowing a degree for each person, both ascending and descending.

Collateral consanguinity.

XXIII. For the purpose of succession, there is no distinction between those who are related to a person deceased through his father and those who are related to him through his mother; nor between those who are related to him by the full blood, and those who are related to him by the half blood; nor between those who were actually born in his lifetime, and those who at the date of his death were only conceived in the womb, but who have been subsequently born alive.

Persons held for purpose of succession to be similarly related to the deceased.

XXIV. In the annexed table of kindred the degrees are computed as far as the sixth, and are marked by numeral figures.

Mode of computing degrees of kindred.

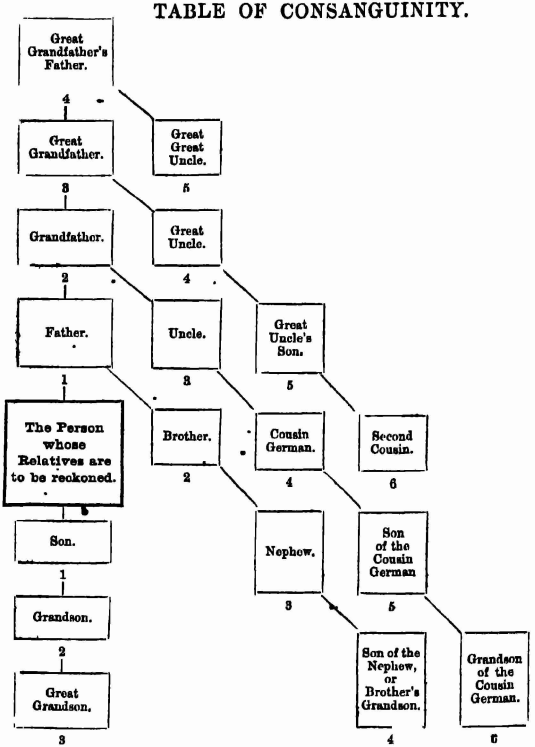
The person whose relatives are to be reckoned, and his cousin-german, or first cousin, are, as shown in the table, related in the fourth degree; there being one degree of ascent to the

father, and another to the common ancestor the grandfather; and from him one of descent to the uncle, and another to the cousin-german; making in all four degrees.

A grandson of the brother and a son of the uncle, *i. e.*, a great-nephew and cousin-german, are in equal degree, being each four degrees removed.

A grandson of a cousin-german is in the same degree as the grandson of a great-uncle, for they are both in the sixth degree of kindred.

TABLE OF CONSANGUINITY.



PART IV.

Of Intestacy.

XXV. A man is considered to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

As to what property a deceased person is considered to have died intestate.

Illustrations.

(*a*) A has left no Will. He has died intestate in respect of the whole of his property.

(*b*) A has left a Will, whereby he has appointed B his executor; but the Will contains no other provisions. A has died intestate in respect of the distribution of his property.

(*c*) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.

(*d*) A has bequeathed £1,000 to B, and £1,000 to the eldest son of C, and has made no other bequest; and has died leaving the sum of £2,000 and no other property. C died before A without having ever had a son. A has died intestate in respect of the distribution of £1,000.

XXVI. Such property devolves upon the wife or husband, or upon those who are of the kindred of the deceased, in the order and according to the rules herein prescribed.

Devolution of such property.

Explanation.—The Widow is not entitled to the provision hereby made for her, if by a valid contract made before her marriage she has been excluded from her distributive share of her husband's estate.

XXVII. Where the intestate has left a widow, if he has also left any lineal descendants, one-third of his property shall belong to his widow, and the remaining two-thirds shall go to his lineal descendants, according to the rules herein contained. If he has left no lineal descendant, but has left persons who are of kindred to him, one-half of his property shall belong to his widow, and the other half shall go to those who are of kindred to him, in the order and according to the rules herein contained. If he has left none who are of kindred to him, the whole of his property shall belong to his widow.

Where the intestate has left a widow and lineal descendants, or a widow and kindred only, or a widow and no kindred.

XXVIII. Where the intestate has left no widow, his property shall go to his lineal descendants, or to those who are of kindred to him, not being lineal descendants, according to the rules herein contained; and if he has left none who are of kindred to him, it shall go to the Crown.

Where the intestate has left no widow, and where he has left no kindred.

PART V.

Of the Distribution of Intestate's Property.

(*a*) *Where he has left Lineal Descendants.*

XXIX. The rules for the distribution of the intestate's property (after deducting the widow's share, if he has left a widow) amongst his lineal descendants are as follows:—

Rules of distribution.

XXX. Where the intestate has left surviving him a child or children, but no more remote lineal descendant through a deceased child, the property shall belong to his surviving child, if there be only one, or shall be equally divided among all his surviving children.

Where the intestate has left a child or children only.

XXXI. Where the intestate has not left surviving him any child, but has left a grandchild or grandchildren, and no more remote descendant through a deceased grandchild, the property shall belong to his surviving grandchild, if there be only one, or shall be equally divided among all his surviving grandchildren.

Where the intestate has left no child, but a grandchild or grandchildren.

Illustrations.

(*a*) A has three children, and no more, John, Mary, and Henry. They all die before the father, John leaving two children, Mary three, and Henry four. Afterwards A dies intestate, leaving those nine grandchildren and no descendant of any deceased grandchild. Each of his grandchildren shall have one-ninth.

(*b*) But if Henry has died, leaving no child, then the whole is equally divided between the intestate's five grandchildren, the children of John and Mary.

(*c*) A has two children, and no more, John and Mary. John dies before his father, leaving his wife pregnant. Then A dies leaving Mary surviving him, and in due time a child of John is born. A's property is to be equally divided between Mary and such posthumous child.

XXXII. In like manner the property shall go to the surviving lineal descendants who are nearest in degree to the intestate, where they are all in the degree of great-grandchildren to him, or are all in a more remote degree.

Where the intestate has left only great-grandchildren or lineal descendants in a remoter degree.

XXXIII. If the intestate has left lineal descendants who do not all stand in the same degree of kindred to him, and the persons through whom the more remote are descended from him are dead, the property shall be divided into such a number of equal shares as may correspond with the number of the lineal descendants of the intestate who either stood in the nearest degree of kindred to him at his decease, or, having been of the like degree of kindred to him, died before him, leaving lineal descendants who survived him; and one of such shares shall be allotted to each of the lineal descendants who stood in the nearest degree of kindred to the intestate at his decease; and one of such shares shall be allotted in respect of each of such deceased lineal descendants; and the share allotted in respect of each of such deceased lineal descendants, shall belong to his surviving child or children or more remote lineal descendants, as the case may be: such surviving child or children or more remote lineal descendants always taking the share which his or their parent or parents would have been entitled to respectively if such parent or parents had survived the intestate.

Where the intestate leaves lineal descendants not all in the same degree of kindred to him and those through whom the more remote descend are dead.

Illustrations.

(*a*) A had three children, John, Mary, and Henry; John died, leaving four children, and Mary died, leaving one, and Henry alone survived the father. On the death of A intestate, one-third is allotted to Henry, one-third to John's four children, and the remaining third to Mary's one child.

(*b*) A left no child, but left eight grandchildren, and two children of a deceased grandchild. The property is divided into nine parts, one of which is allotted to each grandchild; and the remaining one-ninth is equally divided between the two great-grandchildren.

(*c*) A has three children, John, Mary, and Henry. John dies leaving four children, and one of John's children dies leaving two children. Mary dies leaving one child. A afterwards dies intestate. One-third of his property is allotted to Henry; one-third to Mary's child; and one-third is divided into four parts, one of which is allotted to each of John's three surviving children, and the remaining part is equally divided between John's two grandchildren.

(*b*) *Where the Intestate has left no Lineal Descendants.*

XXXIV. Where an intestate has left no lineal descendants, the rules for the distribution of his property (after deducting the widow's share, if he has left a widow) are as follows:

Rules of distribution where the intestate has left no lineal descendants.

XXXV. If the intestate's father be living, he shall succeed to the property.

Where intestate's father is living.

XXXVI. If the intestate's father is dead, but the intestate's mother is living, and there are also brothers or sisters of the intestate living, and there is no child living of any deceased brother or sister, the mother and each living brother or sister shall succeed to the property in equal shares.

Where intestate's father is dead but his mother, brothers and sisters are living.

Illustration.

A dies intestate, survived by his mother and two brothers of the full blood, John and Henry, and a sister Mary, who is the daughter of his mother, but not of his father. The mother takes one-fourth, each brother takes one-fourth, and Mary, the sister of half blood, takes one-fourth.

XXXVII. If the intestate's father is dead, but the intestate's mother is living, and if any brother or sister, and the child or children of any brother or sister who may have died in the intestate's lifetime are also living, then the mother and each living brother or sister, and the living child or children of each deceased brother or sister, shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Where intestate's father is dead and his mother, a brother or sister, and children of any deceased brother or sister are living.

Illustration.

A, the intestate, leaves his mother, his brothers John and Henry, and also one child of a deceased sister Mary, and two children of George, a deceased brother of the half blood, who was the son of his father but not of his mother. The mother takes one-fifth, John and Henry each take one-fifth, the child of Mary takes one-fifth, and the two children of George, divide the remaining one-fifth equally between them.

XXXVIII. If the intestate's father is dead, but the intestate's mother is living, and the brothers and sisters are all dead, but all or any of them have left children who survived the intestate, the mother and the child or children of each

Where intestate's father is dead and his mother and the children of any deceased brother or sister are living.

deceased brother and sister shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Illustration.

A, the intestate, leaves no brother or sister, but leaves his mother and one child of a deceased sister Mary, and two children of a deceased brother George. The mother takes one-third, the child of Mary takes one-third, and the children of George divide the remaining one-third equally between them.

Where intestate's father is dead, but his mother is living and there is no brother nor sister nor nephew.

XXXIX. If the intestate's father is dead but the intestate's mother is living, and there is neither brother, nor sister, nor child of any brother or sister of the intestate, the property shall belong to the mother.

Where intestate has left neither lineal descendant nor father nor mother.

XL. Where the intestate has left neither lineal descendant nor father nor mother, the property is divided equally between his brothers and sisters and the child or children of such of them as may have died before him, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Where intestate has left neither lineal descendant, nor parent, nor brother, nor sister.

XLI. If the intestate left neither lineal descendant, nor parent, nor brother, nor sister, his property shall be divided equally among those of his relatives who are in the nearest degree of of kindred to him.

Illustrations.

(*a*) A, the intestate, has left a grandfather and a grandmother, and no other relative standing in the same or a nearer degree of kindred to him. They, being in the second degree, will be entitled to the property in equal shares, exclusive of any uncle or aunt of the intestate, uncles and aunts being only in the third degree.

(*b*) A, the intestate, has left a great-grandfather or great-grandmother, and uncles and aunts, and no other relative standing in the same or a nearer degree of kindred to him. All of these being in the third degree shall take equal shares.

(*c*) A, the intestate, has left a great-grandfather, an uncle, and a nephew, but no relative standing in a nearer degree of kindred to him. All of these being in the third degree shall take equal shares.

(*d*) Ten children of one brother or sister of the intestate, and one child of another brother or sister of the intestate, constitute the class of relatives of the nearest degree of kindred to him. They shall each take one-eleventh of the property.

Children's advancements not to be brought into hotchpot.

XLII. Where a distributive share in the property of a person who has died intestate shall be claimed by a child, or any descendant of a child of such person, no money or other property which the intestate may during his life have paid, given, or settled to or for the advancement of the child by whom or by whose descendant the claim is made, shall be taken into account in estimating such distributive share.

PART VI.

Of the Effect of Marriage and Marriage Settlements on Property.

Rights of widower and widow respectively.

XLIII. The husband surviving his wife has the same rights in respect of her property, if she die intestate, as the widow has in respect of her husband's property, if he die intestate.

No rights to property not comprised in an ante-nuptial settlement, acquired by marriage between a person domiciled and a person not domiciled in British India.

XLIV. If a person whose domicile is not in British India marries in British India a person whose domicile is in British India, neither party acquires by the marriage any rights in respect of any property of the other party not comprised in a settlement made previous to the marriage, which he or she would not acquire thereby if both were domiciled in British India at the time of the marriage.

Settlement of minor's property in contemplation of marriage.

XLV. The property of a minor may be settled in contemplation of marriage, provided the settlement be made by the minor with the approbation of the minor's father, or if he be dead or absent from British India, with the approbation of the High Court.

PART VII.

Of Wills and Codicils.

Persons capable of making Wills.

XLVI. Every person of sound mind and not a minor may dispose of his property by Will.

Explanation 1. A married woman may dispose by Will of any property which she could alienate by her own act during her life.

Explandtion 2. Persons who are deaf, or dumb, or blind are not thereby incapacitated for making a Will if they are able to know what they do by it.

Explandtion 3. One who is ordinarily insane may make a Will during an interval in which he is of sound mind.

Explanation 4. No person can make a Will while he is in such a state of mind, whether arising from drunkenness, or from illness, or from any other cause, that he does not know what he is doing.

Illustrations.

(*a*) A can perceive what is going on in his immediate neighbourhood, and can answer familiar questions, but has not a competent understanding as to the nature of his property, or the persons who are of kindred to him, or in whose favor it would be proper that he should make his Will. A cannot make a valid Will.

(*b*) A executes an instrument purporting to be his Will, but he does not understand the nature of the instrument nor the effect of its provisions. This instrument is not a valid Will.

(*c*) A being very feeble and debilitated, but capable of exercising a judgment as to the proper mode of disposing of his property, makes his Will. This is a valid Will.

Testamentary Guardian.

XLVII. A father, whatever his age may be, may by Will appoint a guardian or guardians for his child during minority.

Will obtained by fraud, coercion, or importunity.

XLVIII. A Will or any part of a Will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, is void.

Illustrations.

(*a*) A falsely and knowingly represents to the testator that the testator's only child is dead, or that he has done some undutiful act, and thereby induces the testator to make a Will in his, A's favour; such Will has been obtained by fraud, and is invalid.

(*b*) A by fraud and deception prevails upon the testator to bequeath a legacy to him. The bequest is void.

(*c*) A being a prisoner by lawful authority, makes his Will. The Will is not invalid by reason of the imprisonment.

(*d*) A threatens to shoot B, or to burn his house, or to cause him to be arrested on a criminal charge unless he makes a bequest in favour of C. B in consequence makes a bequest in favour of C. The bequest is void, the making of it having been caused by coercion.

(*e*) A being of sufficient intellect, if undisturbed by the influence of others, to make a Will, yet being so much under the control of B that he is not a free agent, makes a Will dictated by B. It appears that he would not have executed the Will but for fear of B. The Will is invalid.

(*f*) A being in so feeble a state of health as to be unable to resist importunity, is pressed by B to make a Will of a certain purport, and does so merely to purchase peace, and in submission to B. The Will is invalid.

(*g*) A being in such a state of health as to be capable of exercising his own judgment and volition, B uses urgent intercession and persuasion with him to induce him to make a Will of a certain purport. A, in consequence of the intercession and persuasion, but in the free exercise of his judgment and volition, makes his Will in the manner recommended by B. The Will is not rendered invalid by the intercession and persuasion of B.

(*h*) A, with a view to obtaining a legacy from B, pays him attention and flatters him, and thereby produces in him a capricious partiality to A. B, in consequence of such attention and flattery, makes his Will by which he leaves a legacy to A. The bequest is not rendered invalid by the attention and flattery of A.

Will may be revoked or altered.

XLIX. A Will is liable to be revoked or altered by the maker of it at any time when he is competent to dispose of his property by Will.

PART VIII.

Of the Execution of Unprivileged Wills.

Execution of unprivileged Wills.

L. Every testator, not being a soldier employed in an expedition, or engaged in actual warfare, or a mariner at sea, must execute his Will according to the following rules:—

First.—The testator shall sign or shall affix his mark to the Will, or it shall be signed by some other person in his presence and by his direction.

Second.—The signature or mark of the testator, or the signature of the person signing for him, shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a Will.

Third.—The Will shall be attested by two or more witnesses, each of whom must have seen the testator sign or affix his mark to the Will, or have seen some other person sign the Will in the presence and by the direction of the testator, or have received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the

witnesses must sign the Will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

Incorporation of papers by reference.

LI. If a testator, in a Will or Codicil duly attested, refers to any other document then actually written, as expressing any part of his intentions, such document shall be considered as forming a part of the Will or Codicil in which it is referred to.

PART IX.

Of Privileged Wills.

Privileged Will.

LII. Any soldier being employed in an expedition, or engaged in actual warfare, or any mariner being at sea, may, if he has completed the age of eighteen years, dispose of his property by a Will made as is mentioned in the fifty-third Section. Such Wills are called Privileged Wills.

Illustrations.

(*a*) A, the surgeon of a regiment, is actually employed in an expedition. He is a soldier actually employed in an expedition, and can make a privileged Will.

(*b*) A is at sea in a merchant ship, of which he is the purser. He is a mariner, and, being at sea, can make a privileged Will.

(*c*) A, a soldier serving in the field against insurgents, is a soldier engaged in actual warfare, and as such can make a privileged Will.

(*d*) A, a mariner of a ship in the course of a voyage, is temporarily on shore while she is lying in harbour. He is, in the sense of the words used in this clause, a mariner at sea, and can make a privileged Will.

(*e*) A, an admiral who commands a naval force, but who lives on shore, and only occasionlly goes on board his ship, is not considered as at sea, and cannot make a privileged Will.

(*f*) A, a mariner serving on a military expedition, but not being at sea, is considered as a soldier, and can make a privileged Will.

Mode of making, and rules for executing privileged Wills.

LIII. Privileged Wills may be in writing, or may be made by word of mouth. The execution of them shall be governed by the following rules:—

First. The Will may be written wholly by the testator, with his own hand. In such case it need not be signed nor attested.

Second. It may be written wholly or in part by another person, and signed by the testator. In such case it need not be attested.

Third. If the instrument purporting to be a Will is written wholly or in part by another person, and is not signed by the testator, it shall be considered to be his Will, if it be shown that it was written by the testator's directions, or that he recognized it as his Will. If it appear on the face of the instrument, that the execution of it in the manner intended by him was not completed, the instrument shall not by reason of that circumstance be invalid, provided that his non-execution of it can be reasonably ascribed to some cause other than the abandonment of the testamentary intentions expressed in the instrument.

Fourth. If the soldier or mariner shall have written instructions for the preparation of his Will, but shall have died before it could be prepared and executed, such instructions shall be considered to constitute his Will.

Fifth. If the soldier or mariner shall in the presence of two witnesses have given verbal instructions for the preparation of his Will, and they shall have been reduced into writing in his lifetime, but he shall have died before the instrument could be prepared and executed, such instructions shall be considered to constitute his Will, although they may not have been reduced into writing in his presence, nor read over to him.

Sixth. Such soldier or mariner as aforesaid may make a Will by word of mouth by declaring his intentions before two witnesses present at the same time.

Seventh. A Will made by word of mouth shall be null at the expiration of one month after the testator shall have ceased to be entitled to make a privileged Will.

PART X.

Of the Attestation, Revocation, Alteration, and Revival of Wills.

LIV. A Will shall not be considered as insufficiently attested by reason of any benefit thereby given, either by way of bequest or by way of appointment, to any person attesting it, or to his or her wife or husband: but the bequest or appointment shall be void so far as concerns the person so attesting, or the wife or husband of such person, or any person claiming under either of them.

Effect of gift to attesting witness.

Explanation. A legatee under a Will does not lose his legacy by attesting a Codicil which confirms the Will.

LV. No person, by reason of interest in or of his being an executor of a Will, is disqualified as a witness to prove the execution of the Will or to prove the validity or invalidity thereof.

Witness not disqualified by interest or by being executor.

LVI. Every Will shall be revoked by the marriage of the maker, except a Will made in exercise of a power of appointment, when the property over which the power of appointment is exercised would not in default of such appointment pass to his or her executor, or administrator, or to the person entitled in case of intestacy.

Revocation of Will by testator's marriage.

Explanation.—Where a man is invested with power to determine the disposition of property of which he is not the owner, he is said to have power to appoint such property.

Power of appointment defined.

LVII. No unprivileged Will or Codicil, nor any part thereof, shall be revoked otherwise than by marriage, or by another Will or Codicil, or by some writing declaring an intention to revoke the same, and executed in the manner in which an unprivileged Will is hereinbefore required to be executed, or by the burning, tearing or otherwise destroying the same by the testator, or by some person in his presence and by his direction with the intention of revoking the same.

Revocation of unprivileged Will or Codicil.

Illustrations.

(*a*) A has made an unprivileged Will; afterwards A makes another unprivileged Will which purports to revoke the first. This is a revocation.

(*b*) A has made an unprivileged Will. Afterwards, A being entitled to make a privileged Will, makes a privileged Will, which purports to revoke his unprivileged Will. This is a revocation.

LVIII. No obliteration, interlineation, or other alteration made in any unprivileged Will after the execution thereof shall have any effect, except so far as the words or meaning of the Will shall have been thereby rendered illegible or undiscernible, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the Will; save that the Will, as so altered, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses be made in the margin or on some other part of the Will opposite or near to such alteration, or at the foot of

Effect of obliteration, interlineation, or alteration in unprivileged Will.

end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the Will.

Revocation of privileged Will or Codicil.

LIX. A privileged Will or Codicil may be revoked by the testator, by an unprivileged Will or Codicil, or by any act expressing an intention to revoke it, and accompanied with such formalities as would be sufficient to give validity to a privileged Will, or by the burning, tearing, or otherwise destroying the same by the testator or by some person in his presence and by his direction, with the intention of revoking the same.

Explanation.—In order to the revocation of a privileged Will or Codicil by an act accompanied with such formalities as would be sufficient to give validity to a privileged Will, it is not necessary that the testator should at the time of doing that act be in a situation which entitles him to make a privileged Will.

Revival of unprivileged Will.

Extent of revival of Will or Codicil partly revoked and afterwards wholly revoked.

LX. No unprivileged Will or Codicil, nor any part thereof which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a Codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any Will or Codicil which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown by the Will or Codicil.

PART XI.

Of the Constructions of Wills.

Wording of Will.

LXI. It is not necessary that any technical words or terms of art shall be used in a Will, but only that the wording shall be such that the intentions of the testator can be known therefrom.

Enquiries to determine questions as to object or subject of Will.

LXII. For the purpose of determining questions as to what person or what property is denoted by any words used in a Will, a Court must inquire into every material fact relating to the persons who claim to be interested under such Will, the property which is claimed as the subject of disposition, the circumstances of

the testator and of his family, and into every fact a knowledge of which may conduce to the right application of the words which the testator has used.

Illustrations.

(*a*) A, by his Will, bequeaths 1,000 Rupees to his eldest son, or to his youngest grandchild, or to his cousin Mary. A Court may make inquiry in order to ascertain to what person the description in the Will applies.

(*b*) A, by his Will, leaves to B his estate called Black Acre. It may be necessary to take evidence in order to ascertain what is the subject-matter of the bequest; that is to say, what estate of the testator's is called Black Acre.

(*c*) A, by his Will, leaves to B the estate which he purchased of C. It may be necessary to take evidence in order to ascertain what estate the testator purchased of C.

Mismomer or misdescription of object.

LXIII. Where the words used in the Will to designate or describe a legatee, or a class of legatees, sufficiently show what is meant, an error in the name or description shall not prevent the legacy from taking effect. A mistake in the name of a legatee may be corrected by a description of him, and a mistake in the description of a legatee may be corrected by the name.

Illustrations.

(*a*) A bequeaths a legacy to Thomas, the second son of his brother John. The testator has an only brother named John, who has no son named Thomas, but has a second son whose name is William. William shall have the legacy.

(*b*) A bequeaths a legacy to Thomas, the second son of his brother John. The testator has an only brother named John, whose first son is named Thomas, and whose second son is named William. Thomas shall have the legacy.

(*c*) The testator bequeaths his property to "A and B, the legitimate children of C." C has no legitimate child, but has two illegitimate children, A and B. The bequest to A and B takes effect, although they are illegitimate.

(*d*) The testator gives his residuary estate to be divided among his seven children, and, proceeding to enumerate them, mentions six names only. This omission shall not prevent the seventh child from taking a share with the others.

(*e*) The testator having six grandchildren, makes a bequest to his six grandchildren, and, proceeding to mention them by their Christian names, mentions one twice over, omitting another altogether. The one whose name is not mentioned shall take a share with the others.

(*f*) The testator bequeaths 1,000 Rupees to each of the three children of A. At the date of the Will A has four children. Each of these four children shall, if he survives the testator, receive a legacy of 1,000 Rupees.

When words may be supplied.

LXIV. Where any word material to the full expression of the meaning has been omitted, it may be supplied by the context.

Illustration.

The testator gives a legacy of five hundred to his daughter A, and a legacy of five hundred Rupees to his daughter B. A shall take a legacy of five hundred Rupees.

Rejection of erroneous particulars in description of subject.

LXV. If the thing which the testator intended, to bequeath can be sufficiently identified from the description of it given in the Will, but some parts of the description do not apply, such parts of the description shall be rejected as erroneous, and the bequest shall take effect.

Illustrations.

(*a*) A bequeaths to B his marsh lands lying in L, and in the occupation of X. The testator had marsh lands lying in L, but had no marsh lands in the occupation of X. The words "in the occupation of X" shall be rejected as erroneous, and the marsh lands of the testator lying in L shall pass by the bequest.

(*b*) The testator bequeaths to A his zamíndárí of Rampore. He had an estate at Rampore, but it was a taluk and not a zamíndárí. The taluk passes by this bequest.

When part of description may not be rejected as erroneous.

LXVI. If the Will mentions several circumstances as descriptive of the thing which the testator intends to bequeath, and there is any property of his in respect of which all those circumstances exist, the bequest shall be considered as limited to such property, and it shall not be lawful to reject any part of the description as erroneous, because the testator had other property to which such part of the description does not apply.

Explanation.—In judging whether a case falls within the meaning of this Section, any words which would be liable to rejection under the Sixty-fifth Section are to be considered as struck out of the Will.

Illustrations.

(*a*) A bequeaths to B "his marsh lands lying in L, and in the occupation of X." The testator had marsh lands lying in L, some of which were in the occupation of X, and some not in the occupation X. The bequest shall be considered as limited to such of the testator's marsh lands lying in L as were in the occupation of X.

(*b*) A bequeaths to B "his marsh lands lying in L, and in the occupation of X, comprising 1,000 bighás of land" The testator had marsh lands lying in L, some of which were in the occupation of X and some not in the occupation of X. The measurement is wholly inapplicable to the marsh lands of either class, or to the whole taken together. The measurement shall be considered as struck out of the Will, and such of the testator's marsh lands lying in L, as were in the occupation of X, shall alone pass by the bequest.

LXVII. Where the words of the Will are unambiguous, but it is found by extrinsic evidence that they admit of applications, one only of which can have been intended by the testator, extrinsic evidence may be taken to show which of these applications was intended.

Extrinsic evidence admissible in case of latent ambiguity.

Illustrations.

(*a*) A man having two cousins of the name of Mary, bequeaths a sum of money to "his cousin Mary." It appears that there are two persons, each answering to the description in the Will. That description, therefore, admits of two applications, only one of which can have been intended by the testator. Evidence is admissible to show which of the two applications was intended.

(*b*) A, by his Will, leaves to B "his estate called Sultánpur Khurd." It turns out that he had two estates called Sultánpur Khurd. Evidence is admissible to show which estate was intended.

LXVIII. Where there is an ambiguity or deficiency on the face of the Will, no extrinsic evidence as to the intentions of the testator shall be admitted.

Extrinsic evidence inadmissible in cases of patent ambiguity or deficiency.

Illustrations.

(*a*) A man has an aunt Caroline and a cousin Mary, and has no aunt of the name of Mary. By his Will he bequeaths 1,000 Rupees to "his aunt Caroline," and 1,000 rupees to "his cousin Mary," and afterwards bequeaths 2,000 rupees to "his before-mentioned aunt Mary." There is no person to whom the description given in the Will can apply, and evidence is not admissible to show who was meant by "his before-mentioned aunt Mary." The bequest is therefore void for uncertainty under the seventy-sixth Section.

(*b*) A bequeaths 1,000 Rupees to , leaving a blank for the name of the legatee. Evidence is not admissible to show what name the testator intended to insert.

(*c*) A bequeaths to B Rupees, or "his estate of ." Evidence is not admissible to show what sum or what estate the testator intended to insert.

LXIX. The meaning of any clause in a Will is to be collected from the entire instrument, and all its parts are to be construed with reference to each other; and for this purpose a Codicil is to be considered as part of the Will.

Meaning of any clause to be collected from entire Will.

Illustrations.

(*a*) The testator gives to B a specific fund or property at the death of A, and by a subsequent clause gives the whole of his property to A. The effect of the several clauses taken together is to vest the specific fund or property in A for life, and after his decease in B; it appearing from the bequest to B that the testator meant to use in a restricted sense the words in which he describes what he gives to A.

(*b*) Where a testator having an estate, one part of which is called Black Acre, bequeaths the whole of his estate to A, and in another part of his Will bequeaths Black Acre to B, the latter bequest is to be read as an exception out of the first, as if he had said, "I give Black Acre to B, and all the rest of my estate to A."

LXX. General words may be understood in a restricted sense where it may be collected from the Will that the testator meant to use them in a restricted sense; and words may be understood in a wider sense than that which they usually bear, where it may be collected from the other words of the Will that the testator meant to use them in such wider sense.

When words may be understood in a restricted sense, and when in a sense wider than usual.

Illustrations.

(*a*) A testator gives to A "his farm in the occupation of B," and to C "all his marsh lands in L." Part of the farm in the occupation of B consists of marsh lands in L, and the testator also has other marsh lands in L. The general words, "all his marsh lands in L," are restricted by the gift to A. A takes the whole of the farm in the occupation of B, including that portion of the farm which consists of marsh lands in L.

(*b*) The testator (a sailor on ship-board) bequeathed to his mother his gold ring, buttons, and chest of clothes, and to his friend A (a shipmate) his red box, clasp-knife, and all things not before bequeathed. The testator's share in a house does not pass to A under this bequest.

(*c*) A, by his Will, bequeathed to B all his household furniture, plate, linen, china, books, pictures, and all other goods of whatever kind; and afterwards bequeathed to B a specified part of his property. Under the first bequest B is entitled only to such articles of the testator's as are of the same nature with the articles therein enumerated.

Where a clause is open to two constructions, that which has some effect is to be preferred.

LXXI. Where a clause is susceptible of two meanings, according to one of which it has some effect, and according to the other it can have none, the former is to be preferred.

No part of Will to be rejected, if reasonable construction can be put on it.

LXXII. No part of a Will is to be rejected as destitute of meaning if it is possible to put a reasonable construction upon it.

Interpretation of words repeated in different parts of Will.

LXXIII. If the same words occur in different parts of the same Will, they must be taken to have been used everywhere in the same sense, unless there appears an intention to the contrary.

Testator's intention to be effectuated as far as possible.

LXXIV. The intention of the testator is not to be set aside, because it cannot take effect to the full extent, but effect is to be given to it as far as possible.

Illustration.

The testator by a Will made on his death-bed bequeathed all his property to C D for life, and after his decease to a certain hospital. The intention of the testator cannot take effect to its full extent, because the gift to the hospital is void under the hundred and fifth Section, but it shall take effect so far as regards the gift to C D.

The last of two inconsistent clauses prevails.

LXXV. Where two clauses or gifts in a Will are irreconcileable, so that they cannot possibly stand together, the last shall prevail.

Illustrations.

(*a*) The testator by the first clause of his Will leaves his estate of Ramnagar "to A," and by the last clause of his Will leaves it "to B and not to A," B shall have it.

(*b*) If a man at the commencement of his Will gives his house to A, and at the close of it directs that his house shall be sold and the proceeds invested for the benefit of B, the latter disposition shall prevail.

Will or bequest void for uncertainty.

LXXVI. A Will or bequest not expressive of any definite intention is void for uncertainty.

Illustration.

If a testator says—"I bequeath goods to A;" or "I bequeath to A;" or "I leave to A all the goods mentioned in a Schedule," and no Schedule is found; or "I bequeath 'money,' 'wheat,' 'oil,' or the like," without saying how much, this is void.

LXXVII. The description contained in a Will, of property the subject of gift, shall, unless a contrary intention appear by the Will, be deemed to refer to and comprise the property answering that description at the death of the testator.

Words describing subject refer to property answering that description at testator's death.

LXXVIII. Unless a contrary intention shall appear by the Will, a bequest of the estate of the testator shall be construed to include any property which he may have power to appoint by Will to any object he may think proper, and shall operate as an execution of such power; and a bequest of property described in a general manner shall be construed to include any property to which such description may extend, which he may have power to appoint by Will to any object he may think proper, and shall operate as an execution of such power.

Power of appointment executed by general bequest.

LXXIX. Where property is bequeathed to or for the benefit of such of certain objects as a specified person shall appoint; or for the benefit of certain objects in such proportions as a specified person shall appoint; and the Will does not provide for the event of no appointment being made; if the power given by the Will be not exercised, the property belongs to all the objects of the power in equal shares.

Implied gift to the objects of a power in default of appointment.

Illustration.

A, by his Will, bequeaths a fund to his wife for her life, and directs that at her death it shall be divided among his children in such proportions as she shall appoint. The widow dies without having made any appointment. The fund shall be divided equally among the children.

LXXX. Where a bequest is made to the "heirs" or "right heirs," or "relations," or "nearest relations," or "family," or "kindred," or "nearest of kin," or "next of kin" of a particular person, without any qualifying terms, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person, and he had died intestate in respect of it, leaving assets for the payment of his debts independently of such property.

Bequest to "heirs," &c., of a particular person without qualifying terms.

Illustrations.

(*a*) A leaves his property "to his own nearest relations." The property goes to those who would be entitled to it if A had died intestate, leaving assets for the payment of his debts independently of such property.

(*b*) A bequeaths 10,000 Rupees "to B for his life, and after the death of B, to his own right heirs." The legacy after B's death belongs to those who would be entitled to it if it had formed part of A's unbequeathed property.

(*c*) A leaves his property to B; but if B dies before him, to B's next of kin; B dies before A; the property devolves as if it had belonged to B, and he had died intestate, leaving assets for the payment of his debts independently of such property.

(*d*) A leaves 10,000 rupees "to B for his life, and after his decease, to the heirs of C." The legacy goes as if it had belonged to C, and he had died intestate, leaving assets for the payment of his debts independently of the legacy.

Bequest to "representatives," &c., of a particular person.

LXXXI. Where a bequest is made to the "representatives," or "legal representatives," or "personal representatives," or "executors or administrators," of a particular person, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person, and he had died intestate in respect of it.

Illustration.

A bequests is made to the "legal representatives" of A. A has died intestate and insolvent. B is his administrator. B is entitled to receive the legacy, and shall apply it in the first place to the discharge of such part of A's debts as may remain unpaid: if there be any surplus, B shall pay it to those persons who at A's death would have been entitled to received any property of A's which might remain after payment of his debts, or to the representatives of such persons.

Bequest without words of limitation.

LXXXII. Where property is bequeathed to any person, he is entitled to the whole interest of the testator therein unless it appears from the Will that only a restricted interest was intended for him.

Bequest in the alternative.

LXXXIII. Where property is bequeathed to a person, with a bequest in the alternative to another person or to a class of persons; if a contrary intention does not appear by the Will, the legatee first named shall be entitled to the legacy, if he be alive at the time when it takes effect; but if he be then dead the person or class of persons named in the second branch of the alternative shall take the legacy.

Illustrations.

(*a*) A bequest is made to A or to B. A survives the testator. B takes nothing.

(*b*) A bequest is made to A or to B. A dies after the date of the Will, and before the testator. The legacy goes to B.

(*c*) A bequest is made to A or to B. A is dead at the date of the Will. The legacy goes to B.

(*d*) Property is bequeathed to A or his heirs. A survives the testator. A takes the property absolutely.

(*e*) Property is bequeathed to A or his nearest of kin. A dies in the lifetime of the testator. Upon the death of the testator, the bequest to A's nearest of kin takes effect.

(*f*) Property is bequeathed to A for life, and after his death to B or his heirs. A and B survive the testator. B dies in A's lifetime. Upon A's death the bequest to the heirs of B takes effect.

(*g*) Property is bequeathed to A for life, and after his death to B or his heirs. B dies in the testator's lifetime. A survives the testator. Upon A's death the bequest to the heirs of B takes effect.

Effect of words describing a class added to a bequest to a person.

LXXXIV. Where property is bequeathed to a person, and words are added which describe a class of persons, but do not denote them as direct objects of a distinct and independent gift, such person is entitled to the whole interest of the testator therein, unless a contrary intention appears by the Will.

Illustrations.

(*a*) A bequest is made—

to A and his children,
to A and his children by his present wife,
to A and his heirs,
to A and the heirs of his body,
to A and the heirs male of his body,
to A and the heirs female of his body,
to A and his issue,
to A and his family,
to A and his descendants,
to A and his representatives,
to A and his personal representatives,
to A, his executors and administrators.

In each of these cases, A takes the whole interest which the testator had in the property.

(*b*) A bequest is made to A and his brothers. A and his brothers are jointly entitled to the legacy.

(*c*) A bequest is made to A for life, and after his death to his issue. At the death of A the property belongs in equal shares to all persons who shall then answer the description of issue of A.

LXXXV. Where a bequest is made to a class of persons under a general description only, no one to whom the words of the description are not in their ordinary sense applicable shall take the legacy.

Bequest to a class of persons under a general description only.

LXXXVI. The word "children" in a will applies only to lineal descendants in the first degree; the word "grandchildren" applies only to lineal descendants in the second degree of the person whose "children," or "grandchildren," are spoken of; the words "nephews" and "nieces" apply only to children of brothers or sisters; the words "cousins," or "first cousins," or "cousins-german," apply only to children of brothers or of sisters of the father or mother of the person whose "cousins," or "first cousins," or "cousins-german," are spoken of; the words "first cousins once removed" apply only to children of cousins-german, or to cousins-german of a parent, of the person whose "first cousins once removed" are spoken of; the words "second cousins" apply only to grandchildren of brothers or of sisters of the grandfather or grandmother of the person whose "second cousins" are spoken of; the words "issue" and "descendants" apply to all lineal descendants whatever of the person whose "issue" or "descendants" are spoken of. Words expressive of collateral relationship apply alike to relatives of full and of half blood. All words expressive of relationship apply to a child in the womb who is afterwards born alive.

Construction of terms.

LXXXVII. In the absence of any intimation to the contrary in the Will, the term "child," "son," or "daughter," or any word which expresses relationship, is to be understood as denoting only a legitimate relative, or where there is no such legitimate relative, a person who has acquired, at the date of the Will, the reputation of being such relative.

Words expressing relationship denote only legitimate relatives, or failing such, relatives reputed legitimate.

Illustrations.

(*a*) A, having three children, B, C, and D, of whom B and C are legitimate, and D is illegitimate, leaves his property to be equally divided among "his children." The property belongs to B and C in equal shares, to the exclusion of D.

(*b*) A, having a niece of illegitimate birth who has acquired the reputation of being his niece, and having no legitimate niece, bequeaths a sum of money to his niece. The illegitimate niece is entitled to the legacy.

(*c*) A, having in his Will enumerated his children, and named as one of them B, who is illegitimate, leaves a legacy to "his said children." B will take a share in the legacy along with the legitimate children.

(*d*) A leaves a legacy to "the children of B." B is dead, and has left none but illegitimate children. All those who had, at the date of the Will, acquired the reputation of being the children of B are objects of the gift.

(*e*) A bequeathed a legacy to "the children of B." B never had any legitimate child. C and D had at the date of the Will acquired the reputation of being children of B. After the date of the Will, and before the death of the testator, E and F were born, and acquired the reputation of being children of B. Only C and D are objects of the bequest.

(*f*) A makes a bequest in favour of his child by a certain woman, not his wife. B had acquired at the date of the Will the reputation of being the child of A by the woman designated. B takes the legacy.

(*g*) A makes a bequest in favour of his child to be born of a woman, who never becomes his wife. The bequest is void.

(*h*) A makes a bequest in favour of the child of which a certain woman, not married to him, is pregnant. The bequest is valid.

Rules of construction where a Will purports to make two bequests to the same person.

LXXXVIII. Where a Will purports to make two bequests to the same person, and a question arises whether the testator intended to make the second bequest instead of, or in addition to, the first; if there is nothing in the Will to show what he intended, the following rules shall prevail in determining the construction to be put upon the Will:—

First.—If the same specific thing is bequeathed twice to the same legatee in the same Will, or in the Will and again in a Codicil, he is entitled to receive that specific thing only.

Second.—Where one and the same Will, or one and the same Codicil, purports to make in two places a bequest to the same person of the same quantity or amount of any thing, he shall be entitled to one such legacy only.

Third.—Where two legacies of unequal amount are given to the same person in the same Will, or in the same Codicil, the legatee is entitled to both.

Fourth.—Where two legacies, whether equal or unequal in amount, are given to the same legatee, one by a Will and the other by a Codicil, or each by a different Codicil, the legatee is entitled to both legacies.

Explanation.—In the four last rules the word Will does not include a Codicil.

Illustrations.

(*a*) A having ten shares, and no more, in the Bank of Bengal, made his Will, which contains near its commencement the words "I bequeath my ten shares in the Bank of Bengal to B." After other bequests, the Will concludes with the words "and I bequeath my ten shares in the Bank of Bengal to B." B is entitled simply to receive A's ten shares in the Bank of Bengal.

(*b*) A having one diamond ring which was given him by B, bequeathed to C the diamond ring which was given him by B. A afterwards made a Codicil to his Will, and thereby, after giving other legacies, he bequeathed to C the diamond ring which was given him by B. C can claim nothing except the diamond ring which was given to A by B.

(*c*) A, by his Will, bequeaths to B the sum of 5,000 Rupees, and afterwards in the same Will, repeats the bequest in the same words. B is entitled to one legacy of 5,000 Rupees only.

(*d*) A, by his Will, bequeaths to B the sum of 5,000 Rupees, and afterwards, by the same Will, bequeaths to B the sum of 6,000 Rupees. B is entitled to 11,000 Rupees.

(*e*) A, by his Will, bequeaths to B 5,000 Rupees and by a Codicil to the Will he bequeaths to him, 5,000 Rupees. B is entitled to receive 10,000 Rupees.

(*f*) A, by one Codicil to his Will, bequeaths to B 5,000 Rupees, and by another Codicil, bequeaths to him 6,000 Rupees. B is entitled to receive 11,000 Rupees.

(*g*) A, by his Will, bequeaths 500 Rupees to B because she was his nurse, and in another part of the Will bequeaths 500 Rupees to B because she went to England with his children. B is entitled to receive 1,000 Rupees.

(*h*) A, by his Will, bequeaths to B the sum of 5,000 Rupees, and also, in another part of the Will, an annuity of 400 Rupees. B is entitled to both legacies.

(*i*) A, by his Will, bequeaths to B the sum of 5,000 Rupees, and also bequeaths to him the sum of 5,000 Rupees if he shall attain the age of 18. B is entitled absolutely to one sum of 5,000 Rupees, and takes a contingent interest in another sum of 5,000 Rupees.

Constitution of residuary legatee.

LXXXIX. A residuary legatee may be constituted by any words that show an intention on the part of the testator that the person designated shall take the surplus or residue of his property.

Illustrations.

(*a*) A makes her Will, consisting of several testamentary papers, in one of which are contained the following words:—"I think there will be something left, after all funeral expenses, &c, to give to B, now at school, towards equipping him to any profession he may hereafter be appointed to." B is constituted residuary legatee.

(*b*) A makes his Will, with the following passage at the end of it:—"I believe there will be found sufficient in my banker's hands to defray and discharge my debts, which I hereby desire B to do, and keep the residue for her own use and pleasure." B is constituted the residuary legatee.

(*c*) A bequeaths all his property to B, except certain stocks and funds, which he bequeaths to C. B is the residuary legatee.

XC. Under a residuary bequest, the legatee is entitled to all property belonging to the testator at the time of his death, of which he has not made any other testamentary disposition which is capable of taking effect.

Property to which a residuary legatee is entitled.

Illustration.

A by his Will bequeaths certain legacies, one of which is void under the hundred and fifth Section and another lapses by the death of the legatee. He bequeaths the residue of his property to B. After the date of his Will, A purchases a zamíndárí, which belongs to him at the time of his death. B is entitled to the two legacies and the zamíndárí as part of the residue.

XCI. If a legacy be given in general terms, without specifying the time when it is to be paid, the legatee has a vested interest in it from the day of the death of the testator, and if he dies without having received it, it shall pass to his representatives.

Time of vesting of legacy in general terms.

XCII. If the legatee does not survive the testator, the legacy cannot take effect, but shall lapse and form part of the residue of the testator's property, unless it appear by the Will that the testator intended that it should go to some other person. In order to entitle the representatives of the legatee to receive the legacy, it must be proved that he survived the testator.

In what case a legacy lapses.

Illustrations.

(*a*) The testator bequeaths to B "500 rupees which B owes him." B dies before the testator; the legacy lapses.

(*b*) A bequest is made to A and his children. A dies before the testator or happens to be dead when the Will is made. The legacy to A and his children lapses.

(*c*) A legacy is given to A, and in case of his dying before the testator, to B. A dies before the testator. The legacy goes to B.

(*d*) A sum of money is bequeathed to A for life, and after his death to B. A dies in the lifetime of the testator; B survives the testator. The bequest to B takes effect

(*e*) A sum of money is bequeathed to A on his completing his eighteenth

year, and if case he should die before he completes his eighteenth year, to B. A completes his eighteenth year, and dies in the lifetime of the testator. The legacy to A lapses, and the bequest to B does not take effect.

(*f*) The testator and the legatee perished in the same shipwreck. There is no evidence to show which died first. The legacy will lapse.

A legacy does not lapse if one of two joint legatees die before the testator.

XCIII. If a legacy be given to two persons jointly, and one of them die before the testator, the other legatee takes the whole.

Illustration.

The legacy is simply to A and B. A dies before the testator. B takes the legacy.

XCIV. But where a legacy is given to legatees in words which show that the testator intended to give them distinct shares of it, then if any legatee die before the testator, so much of the legacy as was intended for him shall fall into the residue of the testator's property.

Effect in such a case of words showing testator's intention that the shares should be distinct.

Illustration.

A sum of money is bequeathed to A, B, and C, to be equally divided among them. A dies before the testator. B and C shall only take so much as they would have had if A had survived the testator.

XCV. Where the share that lapses is a part of the general residue bequeathed by the Will, that share shall go as undisposed of.

When lapsed share goes as undisposed of.

Illustration.

The testator bequeaths the residue of his estate to A, B, and C, to be equally divided between them. A dies before the testator. His one-third of the residue goes as undisposed of.

XCVI. Where a bequest shall have been made to any child or other lineal descendant of the testator, and the legatee shall die in the lifetime of the testator, but any lineal descendant of his shall survive the testator, the bequest shall not lapse, but shall take effect as if the death of the legatee had happened immediately after the death of the testator, unless a contrary intention shall appear by the Will.

When a bequest to testator's child or lineal descendant does not lapse on his death in testator's lifetime.

Illustration.

A makes his Will, by which he bequeaths a sum of money to his son B for his own absolute use and benefit. B dies before A, leaving a son C who

survives A, and having made his Will whereby he bequeaths all his property to his widow D. The money goes to D.

Bequest to A for the benefit of B does not lapse by A's death in testator's lifetime.

XCVII. Where a bequest is made to one person for the benefit of another, the legacy does not lapse by the death, in the testator's lifetime, of the person to whom the bequest is made.

Survivorship in case of bequest to a described class.

XCVIII. Where a bequest is made simply to a described class of persons, the thing bequeathed shall go only to such as shall be alive at the testator's death.

Exception.—If property is bequeathed to a class of persons described as standing in a particular degree of kindred to a specified individual, but their possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest or otherwise, the property shall at that time go to such of them as shall be then alive, and to the representatives of any of them who have died since the death of the testator.

Illustrations.

(*a*) A bequeaths 1,000 Rupees to "the children of B" without saying when it is to be distributed among them. B had died previous to the date of the Will, leaving three children, C, D, and E. E died after the date of the Will but before the death of A. C and D survive A. The legacy shall belong to C and D, to the exclusion of the representatives of E.

(*b*) A bequeaths a legacy to the children of B. At the time of the testator's death, B has no children. The bequest is void.

(*c*) A lease for years of a house was bequeathed to A for his life, and after his decease to the children of B. At the death of the testator, B had two children living, C and D; and he never had any other child. Afterwards, during the lifetime of A, C died, leaving E his executor. D has survived A. D and E are jointly entitled to so much of the leasehold term as remains unexpired.

(*d*) A sum of money was bequeathed to A for life, and after her decease to the children of B. At the death of the testator, B had two children living, C and D, and after that event, two children, E and F were born to B. C and E died in the lifetime of A, C having made a Will, E having made no Will. A has died, leaving D and F surviving her. The legacy is to be divided into four equal parts, one of which is to be paid to the executor of C, one to D, one to the administrator of E, and one to F.

(*e*) A bequeaths one-third of his lands to B for his life, and after his decease to the sisters of B. At the death of the testator, B had two sisters living, C and D, and after that event another sister E was born. C died during the life of B; D and E having survived B. One-third of A's lands belongs to D, E, and the representatives of C, in equal shares.

(*f*) A bequeaths 1,000 Rupees to B for life, and after his death equally among the children of C. Up to the death of B, C had not had any child. The bequest after the death of B is void.

(*g*) A bequeaths 1,000 Rupees to "all the children born or to be born" of B, to be divided among them at the death of C. At the death of the testator, B has two children living, D and E. After the death of the testator, but in the lifetime of C, two other children, F and G, are born to B. After the death of C, another child is born to B. The legacy belongs to D, E, F, and G, to the exclusion of the after-born child of B.

(*h*) A bequeaths a fund to the children of B, to be divided among them when the eldest shall attain majority. At the testator's death, B had one child living named C. He afterwards had two other children named D and E. E died, but C and D were living when C attained majority. The fund belongs to C, D and the representatives of E, to the exclusion of any child who may be born to B after C's attaining majority.

PART XII.

Of void Bequests.

XCIX. Where a bequest is made to a person by a particular description, and there is no person in existence at the testator's death who answers the description, the bequest is void.

Bequest to a person by a particular description, who is not in existence at the testator's death.

Exception.—If property is bequeathed to a person described as standing in a particular degree of kindred to a specified individual, but his possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest, or otherwise; and if a person answering the description is alive at the death of the testator, or comes into existence between that event and such later time, the property shall, at such later time, go to that person, or, if he be dead, to his representatives.

Illustrations.

(*a*) A bequeaths 1,000 Rupees to the eldest son of B. At the death of the testator B has no son. The bequest is void.

(*b*) A bequeaths 1,000 Rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son. Afterwards, during the life of B, a son is born to C. Upon B's death, the legacy goes to C's son.

(*c*) A bequeaths 1,000 Rupees to B for life, and after his death to the eldest son of C. At the death of the testator C had no son; afterwards, during the life of B, a son, named D, is born to C. D dies, then B dies. The legacy goes to the representative of D.

(*d*) A bequeaths his estate of Greenacre to B for life, and at his decease to the eldest son of C. Up to the death of B, C has had no son. The bequest to C's eldest son is void.

(*e*) A bequeaths 1,000 Rupees to the eldest son of C, to be paid to him after the death of B. At the death of the testator, C has no son, but a son is afterwards born to him during the life of B, and is alive at B's death. C's son is entitled to the 1,000 Rupees.

Bequest to a person not in existence at the testator's death, subject to a prior bequest.

C. Where a bequest is made to a person not in existence at the time of the testator's death, subject to a prior bequest contained in the Will, the later bequest shall be void, unless it comprises the whole of the remaining interest of the testator in the thing bequeathed.

Illustrations.

(*a*) Property is bequeathed to A for his life, and after his death to his eldest son for life, and after the death of the latter to his eldest son. At the time of the testator's death, A has no son. Here the bequest to A's eldest son is a bequest to a person not in existence at the testator's death. It is not a bequest of the whole interest that remains to the testator. The bequest to A's eldest son for his life is valid.

(*b*) A fund is bequeathed to A for his life, and after his death to his daughters. A survives the testator. A has daughters, some of whom were not in existence at the testator's death. The bequest to A's daughters comprises the whole interest that remains to the testator in the thing bequeathed. The bequest to A's daughters is valid.

(*c*) A fund is bequeathed to A for his life, and after his death to his daughters, with a direction that if any of them marries under the age of eighteen, her portion shall be settled so that it may belong to herself for life, and may be divisible among her children after her death. A has no daughters living at the time of the testator's death, but has daughters born afterwards who survive him. Here the direction for a settlement has the effect, in the case of each daughter who marries under eighteen, of substituting for the absolute bequest to her a bequest to her merely for her life; that is to say, a bequest to a person not in existence at the time of the testator's death of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund is void.

(*d*) A bequeaths a sum of money to B for life, and directs that upon the death of B the fund shall be settled upon his daughters, so that the portion of each daughter may belong to herself for life, and may be divided among her children after her death. B has no daughter living at the time of the testator's death. In this case the only bequest to the daughters of B is contained in the direction to settle the fund, and this direction amounts to a bequest, to persons not yet born, of a life-interest in the fund, that is to say, of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund upon the daughters of B is void.

CI. No bequest is valid whereby the vesting of the thing bequeathed may be delayed beyond the lifetime of one or more persons living at the testator's decease, and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing bequeathed is to belong.

Rule against perpetuity.

Illustrations.

(*a*) A fund is bequeathed to A for his life; and after his death to B for his life; and after B's death to such of the sons of B as shall first attain the age of 25. A and B survive the testator. Here the son of B who shall first attain the age of 25, may be a son born after the death of the testator; such son may not attain 25 until more than 18 years have elapsed from the death of the longer liver of A and B; and the vesting of the fund may thus be delayed beyond the life time of A and B; and the minority of the sons of B. The bequest after B's death is void.

(*b*) A fund is bequeathed to A for his life, and after his death to B for his life, and after B's death to such of B's sons as shall first attain the age of 25. B dies in the lifetime of the testator, leaving one or more sons. In this case the sons of B are persons living at the time of the testator's decease, and the time when either of them will attain 25 necessarily falls within his own lifetime. The bequest is valid.

(*c*) A fund is bequeathed to A for his life, and after his death to B for his life, with a direction that after B's death it shall be divided amongst such of B's children as shall attain the age of 18; but that if no child of B shall attain that age, the fund shall go to C. Here the time for the division of the fund must arrive at the latest at the expiration of 18 years from the death of B, a person living at the testator's decease. All the bequests are valid.

(*d*) A fund is bequeathed to trustees for the benefit of the testator's daughters, with a direction that if any of them marry under age, her share of the fund shall be settled so as to devolve after her death upon such of her children as should attain the age of 18. Any daughter of the testator to whom the direction applies must be in existence at his decease, and any portion of the fund which may eventually be settled as directed must vest not later than 18 years from the death of the daughter whose share it was. All these provisions are valid.

CII. If a bequest is made to a class of persons with regard to some of whom it is inoperative by reason of the rules contained in the two last preceding Sections, or either of them, such bequest shall be wholly void.

Bequest to a class, some of whom may come under the rule in Sections 100 and 101.

Illustrations.

(*a*) A fund is bequeathed to A for life, and after his death to all his children who shall attain the age of 25. A survives the testator, and has some

children living at the testator's death. Each child of A's living at the testator's death must attain the age of 25 (if at all) within the limits allowed for a bequest. But A may have children after the testator's decease, some of whom may not attain the age of 25 until more than 18 years have elapsed after the decease of A. The bequest to A's children, therefore, is inoperative as to any child born after the testator's death; and as it is given to all his children as a class, it is not good as to any division of that class, but is wholly void.

(*b*) A fund is bequeathed to A for his life, and after his death to B, C, D, and all other the children of A who shall attain the age of 25. B, C, D are children of A living at the testator's decease. In all other respects the case is the same as that supposed in Illustration (*a*). The mention of B, C, and D by name does not prevent the bequest from being regarded as a bequest to a class, and the bequest is wholly void.

Bequest to take effect on failure of bequest void under Section 100, 101 or 102.

CIII. Where a bequest is void by reason of any of the rules contained in the three last preceding Sections, any bequest contained in the same Will, and intended to take effect after or upon failure of such prior bequest, is also void.

Illustrations.

(*a*) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, for his life, and after the decease of such son, to B. A and B survive the testator. The bequest to B is intended to take effect after the bequest to such of the sons of A as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

(*b*) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, and if no son of A shall attain that age, to B. A and B survive the testator. The bequest to B is intended to take effect upon failure of the bequest to such of A's sons as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

Effect of direction for accumulation.

CIV. A direction to accumulate the income arising from any property shall be void; and the property shall be disposed of as if no accumulation had been directed.

Exception.—Where the property is immoveable, or where accumulation is directed to be made from the death of the testator, the direction shall be valid in respect only of the income arising from the property within one year next following the testator's death; and at the end of the year such property

and income shall be disposed of respectively, as if the period during which the accumulation has been directed to be made had elapsed.

Illustrations.

(*a*) The Will directs that the sum of 10,000 rupees shall be invested, in Government securities, and the income accumulated for 20 years, and that the principal, together with the accumulations, shall then be divided between A, B, and C. A, B, and C are entitled to receive the sum of 10,000 rupees at the end of the year from the testator's death.

(*b*) The Will directs that 10,000 rupees shall be invested, and the income accumulated until A shall marry, and shall then be paid to him. A is entitled to receive 10,000 rupees at the end of a year from the testator's death.

(*c*) The Will directs that the rents of the farm of Sultánpur shall be accumulated for ten years, and that the accumulation shall be then paid to the eldest son of A. At the death of the testator, A has an eldest son living, named B. B shall receive at the end of one year from the testator's death the rents which have accrued during the year, together with any interest which may have been made by investing them.

(*d*) The Will directs that the rents of the farm of Sultánpur shall be accumulated for ten years, and that the accumulations shall then be paid to the eldest son of A. At the death of the testator, A has no son. The bequest is void.

(*e*) A bequeaths a sum of money to B, to be paid to him when he shall attain the age of 18, and directs the interest to be accumulated till he shall arrive at that age. At A's death the legacy becomes vested in B; and so much of the interest as is not required for his maintenance and education is accumulated, not by reason of the direction contained in the Will, but in consequence of B's minority.

Bequests to religious or charitable uses.

CV. No man having a nephew or niece, or any nearer relative, shall have power to bequeath any property to religious or charitable uses, except by a Will executed not less than twelve months before his death, and deposited, within six months from its execution, in some place provided by law for the safe custody of the Wills of living persons.

Illustration.

A having a nephew makes a bequest by a Will not executed nor deposited as required—

For the relief of poor people;
For the maintenance of sick soldiers;
For the erection or support of a hospital;
For the education and preferment of orphans;

For the support of scholars;
For the erection or support of a school;
For the building and repairs of a bridge;
For the making of roads;
For the erection or support of a church;
For the repairs of a church;
For the benefit of ministers of religion;
For the formation or support of a public garden.

All these bequests are void.

PART XIII.

Of the Vesting of Legacies.

Date of vesting of legacy when payment or possession postponed.

CVI. Where by the terms of a bequest the legatee is not entitled to immediate possession of the thing bequeathed, a right to receive it at the proper time shall, unless a contrary intention appears by the Will, become vested in the legatee on the testator's death, and shall pass to the legatee's representatives if he dies before that time and without having received the legacy. And in such cases the legacy is from the testator's death said to be vested in interest.

Explanation.—An intention that a legacy to any person shall not become vested in interest in him is not to be inferred merely from a provision whereby the payment or possession of the thing bequeathed is postponed, or whereby a prior interest therein is bequeathed to some other person, or whereby the income arising from the fund bequeathed is directed to be accumulated until the time of payment arrives, or from a provision that if a particular event shall happen, the legacy shall go over to another person.

Illustrations.

(*a*) A bequeaths to B 100 Rupees, to be paid to him at the death of C. On A's death the legacy becomes vested in interest in B, and if he dies before C, his representatives are entitled to the legacy.

(*b*) A bequeaths to B 100 Rupees, to be paid to him upon his attaining the age of 18. On A's death the legacy becomes vested in interest in B.

(*c*) A fund is bequeathed to A for life, and after his death to B. On the testator's death the legacy to B becomes vested in interest in B.

(*d*) A fund is bequeathed to A until B attains the age of 18, and then to B. The legacy to B is vested in interest from the testator's death.

(*e*) A bequeaths the whole of his property to B upon trust to pay certain debts out of the income, and then to make over the fund to C. At A's death the gift to C becomes vested in interest in him.

(*f*) A fund is bequeathed to A, B, and C in equal shares, to be paid to them on their attaining the age of 18 respectively, with a proviso that, if all of them die under the age of 18, the legacy shall devolve upon D. On the death of the testator, the shares vest in interest in A, B, and C, subject to be devested in case A, B, and C shall all die under 18, and upon the death of any of them (except the last survivor) under the age of 18, his vested interest passes, so subject, to his representatives.

Date of vesting when legacy is contingent upon a specified uncertain event.

CVII. A legacy bequeathed in case a specified uncertain event shall happen does not vest until that event happens. A legacy bequeathed in case a specified uncertain event shall not happen does not vest until the happening of that event becomes impossible. In either case, until the condition has been fulfilled, the interest of the legatee is called contingent.

Exception.—Where a fund is bequeathed to any person upon his attaining a particular age, and the will also gives to him absolutely the income to arise from the fund before he reaches that age, or directs the income, or so much of it as may be necessary, to be applied for his benefit; the bequest of the fund is not contingent.

Illustrations.

(*a*) A legacy is bequeathed to D in case A, B, and C shall all die under the age of 18. D has a contingent interest in the legacy until A, B, and C all die under 18, or one of them attains that age.

(*b*) A sum of money is bequeathed to A "in case he shall attain the age of 18," or "when he shall attain the age of 18." A's interest in the legacy is contingent until the condition shall be fulfilled by his attaining that age.

(*c*) An estate is bequeathed to A for life, and after his death to B, if B shall then be living, but if B shall not be then living, to C. A, B, and C survive the testator. B and C each take a contingent interest in the estate until the event which is to vest it in one or in the other shall have happened.

(*d*) An estate is bequeathed as in the case last supposed. B dies in the lifetime of A and C. Upon the death of B, C acquires a vested right to obtain possession of the estate upon A's death.

(*e*) A legacy is bequeathed to A when she shall attain the age of 18, or shall marry under that age with the consent of B, with a proviso that, if she shall not attain 18, or marry under that age with B's consent, the legacy shall go to C. A and C each take a contingent interest in the legacy. A attains the age of 18. A becomes absolutely entitled to the legacy, although she may have married under 18 without the consent of B.

(*f*) An estate is bequeathed to A until he shall marry, and after that event to B. B's interest in the bequest is contingent until the condition shall be fulfilled by A's marrying.

(*g*) An estate is bequeathed to A until he shall take advantage of the Act for the relief of Insolvent Debtors, and after that event to B. B's interest in the bequest is contingent until A takes advantage of the Act.

(*h*) An estate is bequeathed to A if he shall pay 500 Rupees to B. A's interest in the bequest is contingent until he has paid 500 Rupees to B.

(*i*) A leaves his farm of Sultánpur Khurd to B, if B shall convey his own farm of Saltánpur Buzurg to C. B's interest in the bequest is contingent until he has conveyed the latter farm to C.

(*j*) A fund is bequeathed to A if B shall not marry C within five years after the testator's death. A's interest in the legacy is contingent, until the condition shall be fulfilled by the expiration of the five years without B's having married C, or by the occurrence within that period of an event which makes the fulfilment of the condition impossible.

(*k*) A fund is bequeathed to A if B shall not make any provision for him by Will. The legacy is contingent until B's death.

(*l*) A bequeaths to B 500 Rupees a year upon his attaining the age of 18, and directs that the interest, or a competent part thereof, shall be applied for his benefit until he reaches that age. The legacy is vested.

(*m*) A bequeaths to B 500 Rupees when he shall attain the age of 18, and directs that a certain sum, out of another fund, shall be applied for his maintenance until he arrives at that age. The legacy is contingent.

Vesting of interest in a bequest to such members of a class as shall have attained a particular age.

CVIII. Where a bequest is made only to such members of a class as shall have attained a particular age, a person who has not attained that age cannot have a vested interest in the legacy.

Illustration.

A fund is bequeathed to such of the children of A as shall attain the age of 18, with a direction that, while any child of A shall be under the age of 18, the income of the share, to which it may be presumed he will be eventually entitled, shall be applied for his maintenance and education. No child of A, who is under the age of 18, has a vested interest in the bequest.

PART XIV.

Of Onerous Bequests.

Onerous bequest.

CIX. Where a bequest imposes an obligation on the legatee, he can take nothing by it unless he accepts it fully.

Illustration.

A having shares in (X) a prosperous joint stock company, and also shares in (Y) a joint stock company in difficulties, in respect of which shares heavy calls are expected to be made, bequeaths to B all his shares in joint stock companies. B refuses to accept the shares in (Y). He forfeits the shares in (X)

CX. Where a Will contains two separate and independent bequests to the same person, the legatee is at liberty to accept one of them and refuse the other, although the former may be beneficial and the latter onerous.

One of two separate and independent bequests to same person may be accepted, and the other refused.

Illustration.

A having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is higher than the house can be let for, bequeaths to B the lease and a sum of money. B refuses to accept the lease. He shall not by this refusal forfeit the money.

PART XV.

Of Contingent Bequests.

CXI. Where a legacy is given if a specified uncertain event shall happen, and no time is mentioned in the Will for the occurrence of that event, the legacy cannot take effect unless such event happens before the period when the fund bequeathed is payable or distributable.

Bequest contingent upon a specified uncertain event, no time being mentioned for its occurrence.

Illustrations.

(*a*) A legacy is bequeathed to A, and in case of his death, to B. If A survives the testator the legacy to B does not take effect.

(*b*) A legacy is bequeathed to A, and in case of his death without children to B. If A survives the testator, or dies in his lifetime leaving a child, the legacy to B does not take effect.

(*c*) A legacy is bequeathed to A when and if he attains the age of 18, and in case of his death, to B. A attains the age of 18. The legacy to B does not take effect.

(*d*) A legacy is bequeathed to A for life, and after his death to B, and in case of B's death without children, to C. The words "in case of B's death without children" are to be understood as meaning in case B shall die without children during the lifetime of A.

(*e*) A legacy is bequeathed to A for life, and after his death to B, and in case of B's death, to C. The words "in case of B's death" are to be considered as meaning in case B shall die in the lifetime of A.

CXII. Where a bequest is made to such of certain persons as shall be surviving at some period, but the exact period is not specified, the legacy shall go to such of them as shall be alive at the time of payment or distribution, unless a contrary intention appear by the Will.

Bequest to such of certain persons as shall be surviving at some period not specified.

Illustrations.

(*a*) Property is bequeathed to A and B to be equally divided between them, or to the survivor of them. If both A and B survive the testator, the legacy is equally divided between them. If A dies before the testator, and B survives the testator, it goes to B.

(*b*) Property is bequeathed to A for life, and after his death to B and C, to be equally divided between them, or to the survivor of them. B dies during the life of A; C survives A. At A's death the legacy goes to C.

(*c*) Property is bequeathed to A for life, and after his death to B and C, or the survivor, with a direction that if B should not survive the testator, his children are to stand in his place. C dies during the life of the testator; B survives the testator, but dies in the lifetime of A. The legacy goes to the representative of B.

(*d*) Property is bequeathed to A for life, and after his death to B and C, with a direction that, in case either of them dies in the lifetime of A, the whole shall go to the survivor. B dies in the lifetime of A; afterwards C dies in the lifetime of A. The legacy goes to the representative of C.

PART XVI.

Of Conditional Bequests.

Bequest upon impossible condition.

CXIII. A bequest upon an impossible condition is void.

Illustrations.

(*a*) An estate is bequeathed to A on condition that he shall walk one hundred miles in an hour. The bequest is void.

(*b*) A bequeaths 500 Rupees to B on condition that he shall marry A's daughter. A's daughter was dead at the date of the Will. The bequest is void.

Bequest upon illegal or immoral condition.

CXIV. A bequest upon a condition, the fulfilment of which would be contrary to law or to morality, is void.

Illustrations.

(*a*) A bequeaths 500 Rupees to B on condition that he shall murder C. The bequest is void.

(*b*) A bequeaths 5,000 Rupees to his niece if she will desert her husband. The bequest is void.

Fulfilment of condition precedent to the vesting of a legacy.

CXV. Where a Will imposes a condition to be fulfilled before the legatee can take a vested interest in the thing bequeathed, the condition shall be considered to have been fulfilled if it has been substantially complied with.

Illustrations.

(*a*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, D and E. A marries with the written consent of B. C is present at the marriage. D sends a present to A previous to the marriage. E has been personally informed by A of his intentions, and has made no objection. A has fulfilled the condition.

(*b*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, and D. D dies. A marries with the consent of B and C. A has fulfilled the condition.

(*c*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, and D. A marries in the lifetime of B, C, and D, with the consent of B and C only. A has not fulfilled the condition.

(*d*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, and D. A obtains the unconditional assent of B, C, and D to his marriage with E. Afterwards B, C, and D capriciously retract their consent. A marries E. A has fulfilled the condition.

(*e*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, and D. A marries without the consent of B, C, and D, but obtains their consent after the marriage. A has not fulfilled the condition.

(*f*) A makes his Will, whereby he bequeaths a sum of money to B, if B shall marry with the consent of A's executors. B marries during the lifetime of A, and A afterwards expresses his approbation of the marriage. A dies. The bequest to B takes effect.

(*g*) A legacy is bequeathed to A if he executes a certain document within a time specified in the Will. The document is executed by A within a reasonable time, but not within the time specified in the Will. A has not performed the condition, and is not entitled to receive the legacy.

Bequest to A, and, on failure of the prior bequest, to B.

CXVI. Where there is a bequest to one person and a bequest of the same thing to another if the prior bequest shall fail, the second bequest shall take effect upon the failure of the prior bequest, although the failure may not have occurred in the manner contemplated by the testator.

Illustrations.

(*a*) A bequeaths a sum of money to his own children surviving him, and, if they all die under 18, to B. A dies without having ever had a child. The bequest to B takes effect.

(*b*) A bequeaths a sum of money to B, on condition that he shall execute a certain document within three months after A's death, and if he should neglect to do so, to C. B dies in the testator's lifetime. The bequest to C takes effect.

CXVII. Where the Will shows an intention that the second bequest shall take effect only in the event of the first bequest failing in a particular manner, the second bequest shall not take effect unless the prior bequest fails in that particular manner.

Case in which the second bequest shall not take effect on failure of the first.

Illustration.

A makes a bequest to his wife, but in case she should die in his lifetime, bequeaths to B that which he had bequeathed to her. A and his wife perish together, under circumstances which make it impossible to prove that she died before him. The bequest to B does not take effect.

CXVIII. A bequest may be made to any person with the condition superadded that in case a specified uncertain event shall happen, the thing bequeathed shall go to another person; or, that in case a specified uncertain event shall not happen, the thing bequeathed shall go over to another person. In each case the ulterior bequest is subject to the rules contained in Sections 107, 108, 109, 110, 111, 112, 113, 114, 116, 117.

Bequest over, conditional upon the happening or not happening of a specified uncertain event.

Illustrations.

(*a*) A sum of money is bequeathed to A, to be paid to him at the age of 18, and if he shall die before he attains that age, to B. A takes a vested interest in the legacy, subject to be devested, and to go to B in case A shall die under 18.

(*b*) An estate is bequeathed to A with a proviso that if A shall dispute the competency of the testator to make a will, the estate shall go to B. A disputes the competency of the testator to make a will. The estate goes to B.

(*c*) A sum of money is bequeathed to A for life, and after his death to B, but if B shall then be dead, leaving a son, such son is to stand in the place of B. B takes a vested interest in the legacy, subject to be devested if he dies leaving a son in A's lifetime.

(*d*) A sum of money is bequeathed to A and B, and if either should die during the life of C, then to the survivor living at the death of C. A and B die before C. The gift over cannot take effect, but the representative of A takes one-half of the money, and the representative of B takes the other half.

(*e*) A bequeaths to B the interest of a fund for life, and directs the fund to be divided, at her death, equally among her three children, or such of them as shall be living at her death. All the children of B die in B's lifetime. The bequest over cannot take effect, but the interests of the children pass to their representatives.

CXIX. An ulterior bequest of the kind contemplated by the last preceding Section cannot take effect, unless the condition is strictly fulfilled.

Condition must be strictly fulfilled.

Illustrations.

(*a*) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, C and D, the legacy shall go to E. D dies. Even if A marries without the consent of B and C, the gift to E does not take effect.

(*b*) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, the legacy shall go to C. A marries with the consent of B. He afterwards becomes a widower and marries again without the consent of B. The bequest to C does not take effect.

(*c*) A legacy is bequeathed to A, to be paid at 18, or marriage, with a proviso that if A dies under 18, or marries without the consent of B, the legacy shall go to C. A marries under 18, without the consent of B. The bequest to C takes effect.

CXX. If the ulterior bequest be not valid, the original bequest is not affected by it.

Original bequest not affected by invalidity of second.

Illustrations.

(*a*) An estate is bequeathed to A for his life, with a condition superadded that if he shall not on a given day walk 100 miles in an hour, the estate shall go to B. The condition being void, A retains his estate as if no condition had been inserted in the Will.

(*b*) An estate is bequeathed to A for her life, and if she do not desert her husband, to B. A is entitled to the estate during her life as if no condition had been inserted in the Will.

(*c*) An estate is bequeathed to A for life, and, if he marries, to the eldest son of B for life. B, at the date of the testator's death, had not had a son. The bequest over is void under Section 92, and A is entitled to the estate during his life.

CXXI. A bequest may be made with the condition superadded that it shall cease to have effect in case a specified uncertain event shall happen, or in case a specified uncertain event shall not happen.

Bequest conditioned that it shall cease to have effect in case a specified uncertain event shall happen or not happen.

Illustrations.

(*a*) An estate is bequeathed to A for his life, with a proviso that in case he shall cut down a certain wood, the bequest shall cease to have any effect. A cuts down the wood; he loses his life interest in the estate.

(*b*) An estate is bequeathed to A, provided that if he marries under the age of 25 without the consent of the executors named in the Will, the estate shall cease to belong to him. A marries under 25 without the consent of the executors. The estate ceases to belong to him.

(*c*) An estate is bequeathed to A, provided that if he shall not go to England within three years after the testator's death, his interest in the estate shall cease. A does not go to England within the time prescribed. His interest in the estate ceases.

(*d*) An estate is bequeathed to A, with a proviso that if she becomes a Nun she shall cease to have any interest in the estate. A becomes a Nun. She loses her interest under the Will.

(*e*) A fund is bequeathed to A for life, and after his death to B, if B shall be then living, with a proviso that if B shall become a Nun, the bequest to her shall cease to have any effect. B becomes a Nun in the lifetime of A. She thereby loses her contingent interest in the fund.

CXXII. In order that a condition that a bequest shall cease to have effect may be valid, it is necessary that the event to which it relates be one which could legally constitute the condition of a bequest as contemplated by the One hundred and seventh Section.

Such condition must not be invalid under Section 107.

CXXIII. Where a bequest is made with a condition superadded that unless the legatee shall perform a certain act, the subject-matter of the bequest shall go to another person, or the bequest shall cease to have effect; but no time is specified for the performance of the act; if the legatee takes any step which renders impossible or indefinitely postpones the performance of the act required, the legacy shall go as if the legatee had died without performing such act.

Result of legatee rendering impossible or indefinitely postponing an act for which no time is specified and on the non-performance of which the subject-matter is to go over.

Illustrations.

(*a*) A bequest is made to A with a proviso that unless he enters the army the legacy shall go over to B. A takes holy orders, and thereby renders it impossible that he should fulfil the condition. B is entitled to receive the legacy.

(*b*) A bequest is made to A with a proviso that it shall cease to have any effect if he does not marry B's daughter. A marries a stranger, and thereby indefinitely postpones the fulfilment of the condition. The bequest ceases to have effect.

CXXIV. Where the Will requires an act to be performed by the legatee within a specified time, either as a condition to be fulfilled before the legacy is enjoyed, or as a condition upon the non-fulfilment of which the subject-matter of the bequest is to go over to another person, or the bequest is to cease to have effect;

Performance of condition, precedent or subsequent, within specified time.

the act must be performed within the time specified, unless the performance of it be prevented by fraud, in which case such further time shall be allowed as shall be requisite to make up for the delay caused by such fraud.

Further time allowed in case of fraud.

PART XVII.

Of Bequests with Directions as to Application or Enjoyment.

CXXV. Where a fund is bequeathed absolutely to or for the benefit of any person, but the Will contains a direction that it shall be applied or enjoyed in a particular manner, the legatee shall be entitled to receive the fund as if the Will had contained no such direction.

Direction that funds be employed in a particular manner following an absolute bequest of the same to or for the benefit of any person.

Illustration.

A sum of money, is bequeathed towards purchasing a country residence for A, or to purchase an annuity for A, or to purchase a commission in the Army for A, or to place A in any business. A chooses to receive the legacy in money. He is entitled to do so.

CXXVI. Where a testator absolutely bequeaths a fund, so as to sever it from his own estate, but directs that the mode of enjoyment of it by the legatee shall be restricted so as to secure a specified benefit for the legatee; if that benefit cannot be obtained for the legatee, the fund belongs to him as if the Will had contained no such direction.

Direction that a mode of enjoyment of absolute bequest is to be restricted to secure a specified benefit for the legatee.

Illustrations.

(*a*) A bequeaths the residue of his property to be divided equally among his daughters, and directs that the shares of the daughters shall be settled upon themselves respectively for life, and be paid to their children after their death. All the daughters die unmarried, the representatives of each daughter are entitled to her share of the residue.

(*b*) A directs his trustees to raise a sum of money for his daughter, and he then directs that they shall invest the fund, and pay the income arising from it to her during her life, and divide the principal among her children after her death. The daughter dies without having ever had a child. Her representatives are entitled to the fund.

CXXVII. Where a testator does not absolutely bequeath a fund, so as to sever it from his own estate, but gives it for certain purposes, and part of those purposes cannot be fulfilled, the

Bequest of a fund for certain purposes, some of which cannot be fulfilled.

fund, or so much of it as has not been exhausted upon the objects contemplated by the Will, remains a part of the estate of the testator.

Illustrations.

(*a*) A directs that his trustees shall invest a sum of money in a particular way, and shall pay the interest to his son for life, and at his death shall divide the principal among his children; the son dies without having ever had a child. The fund, after the son's death, belongs to the estate of the testator.

(*b*) A bequeaths the residue of his estate to be divided equally among his daughters, with a direction that they are to have the interest only during their lives, and that at their decease the fund shall go to their children. The daughters have no children. The fund belongs to the estate of the testator.

PART XVIII.

Of Bequests to an Executor.

CXXVIII. If a legacy is bequeathed to a person who is named an executor of the Will, he shall not take the legacy unless he proves the Will or otherwise manifests an intention to act as executor.

Legatee named as executor cannot take unless he shews intention to act as executor.

Illustration.

A legacy is given to A who is named an executor. A orders the funeral according to the directions contained in the Will, and dies a few days after the testator, without having proved the Will. A has manifested an intention to act as executor.

PART XIX.

Of Specific Legacies.

CXXIX. Where a testator bequeaths to any person a specified part of his property, which is distinguished from all other parts of his property, the legacy is said to be specific.

Specific legacy defined.

Illustrations.

(*a*) A bequeaths to B—

"The diamond ring presented to him by C."

"His gold chain."

"A certain bale of wool."

"A certain piece of cloth."

"All his household goods, which shall be in or about his dwelling-house in M Street, in Calcutta, at the time of his death."

"The sum of 1,000 Rupees in a certain chest."

"The debt which B owes him."

"All his bills, bonds, and securities belonging to him, lying in his lodgings in Calcutta."

"All his furniture in his house in Calcutta."

"All his goods on board a certain ship then lying in the River Hooghly."

"2,000 Rupees which he has in the hands of C."

"The money due to him on the bond of D."

"His mortgage on the Rampore Factory."

"One-half of the money owing to him on his mortgage of Rampore Factory."

"1,000 Rupees, being part of a debt due to him from C."

"His capital Stock of £1,000 in East India Stock."

"His promissory notes of the Government of India, for 10,000 Rupees in their 4 per cent. loan."

"All such sums of money as his executors may, after his death, receive in respect of the debt due to him from the insolvent firm of D and Company."

"All the wine which he may have in his cellar at the time of his death."

"Such of his horses as B may select."

"All his shares in the Bank of Bengal."

"All the shares in the Bank of Bengal which he may possess at the time of his death."

"All the money which he has in the 5½ per cent. Loan of the Government of India."

"All the Government securities he shall be entitled to at the time of his decease."

Each of these legacies is specific.

(*b*) A having Government promissory notes for 10,000 Rupees, bequeaths to his executors "Government promissory notes for 10,000 Rupees, in trust to sell," for the benefit of B.

The legacy is specific.

(*c*) A having property in Benares, and also in other places, bequeaths to B all his property at Benares.

The legacy is specific.

(*d*) A bequeaths to B—

His house in Calcutta.

His zamíndárí of Rampore.

His taluk of Rámnagar.

His lease of the Indigo factory of Sulkea.

An annuity of 500 Rupees out of the rents of his zamíndárí of W.

A directs his zamíndárí of X to be sold, and the proceed to be invested for the benefit of B.

Each of these bequests is specific.

(*e*) A by his Will charges his zamíndárí of Y with an annuity of 1,000 Rupees to C during his life, and subject to this charge he bequeaths the zamíndárí to D. Each of these bequests is specific.

(*f*) A bequeaths a sum of money to buy a house in Calcutta for B
To buy an estate in Zillah Fureedpore for B.
To buy a diamond ring for B.
To buy a horse for B.
To be invested in shares in the Bank of Bengal for B.
To be invested in Government securities for B.

A bequeaths to B—
"A diamond ring."
"A horse."
"10,000 Rupees worth of Government securities."
"An annuity of 500 Rupees."
"2,000 Rupees, to be paid in cash."
"So much money as will produce 5,000 Rupees 4 per cent. Government securities."

These bequests are not specific.

(*g*) A, having property in England and property in India, bequeaths a legacy to B, and directs that it shall be paid out of the property which he may leave in India. He also bequeaths a legacy to C, and directs that it shall be paid out of the property which he may leave in England.

No one of these legacies is specific.

Bequest of a sum certain where the stocks, &c., in which it is invested are described.

CXXX. Where a sum certain is bequeathed, the legacy is not specific merely because the stocks, funds, or securities in which it is invested are described in the Will.

Illustration.

A bequeaths to B—
"10,000 Rupees of his funded property."
"10,000 Rupees of his property now invested in Shares of the East Indian Railway Company."
"10,000 Rupees at present secured by mortgage of Rampore Factory."

No one of these legacies is specific.

Bequest of stock where the testator had at the date of his Will an equal or greater amount of stock of the same kind.

CXXXI. Where a bequest is made in general terms, of a certain amount of any kind of stock, the legacy is not specific merely because the testator was at the date of his Will possessed of stock of the specified kind, to an equal or greater amount than the amount bequeathed.

Illustration.

A bequeaths to B 5,000 Rupees five per cent. Government securities. A had at the date of the Will five per cent. Government securities for 5,000 Rupees.

The legacy is not specific.

CXXXII. A money legacy is not specific merely because the Will directs its payment to be postponed until some part of the property of the testator shall have been reduced to a certain form, or remitted to a certain place.

Bequest of money where it is not to be paid until some part of the testator's property shall have been disposed of in a certain way.

Illustration.

A bequeaths to B 10,000 Rupees, and directs that this legacy shall be paid as soon as A's property in India shall be realized in England.

The legacy is not specific.

CXXXIII. Where a Will contains a bequest of the residue of the testator's property along with an enumeration of some items of property not previously bequeathed, the articles enumerated shall not be deemed to be specifically bequeathed.

When enumerated articles are not to be deemed to be specifically bequeathed.

CXXXIV. Where property is specifically bequeathed to two or more persons in succession, it shall be retained in the form in which the testator left it, although it may be of such a nature that its value is continually decreasing.

Retention, in form, of specific bequests to several persons in succession.

Illustrations.

(*a*) A having a lease of a house for a term of years, 15 of which were unexpired at the time of his death, has bequeathed the lease to B for his life, and after B's death to C. B is to enjoy the property as A left it, although if B lives for 15 years, C can take nothing under the bequest.

(*b*) A having an annuity during the life of B, bequeaths it to C for his life, and after C's death to D. C is to enjoy the annuity as A left it, although, if B dies before D, D can take nothing under the bequest.

CXXXV. Where property comprised in a bequest to two or more persons in succession, is not specifically bequeathed, it shall, in the absence of any direction to the contrary, be sold, and the proceeds of the sale shall be invested in such securities as the High Court may, by any general rule to be made from time to time authorize or direct, and the fund thus constituted shall be enjoyed by the successive legatees according to the terms of the Will.

Sale and investment of proceeds of property bequeathed to two or more persons in succession.

Illustration.

A, having a lease for a term of years, bequeaths "all his property" to B for life, and after B's death to C. The lease must be sold and the proceeds invested

as stated in the text, and the annual income arising from the fund is to be paid to B for life. At B's death the capital of the fund is to be paid to C.

Where there is a deficiency of assets to pay legacies, specific legacy not liable to abate with general legacies.

CXXXVI. If there be a deficiency of assets to pay legacies, a specific legacy is not liable to abate with the general legacies.

PART XX.

Of Demonstrative Legacies.

Demonstrative legacy defined.

CXXXVII. Where a testator bequeaths a certain sum of money or a certain quantity of any other commodity, and refers to a particular fund or stock so as to constitute the same the primary fund or stock out of which payment is to be made, the legacy is said to be demonstrative.

Explanation.—The distinction between a specific legacy and a demonstrative legacy consists in this, that were specified property is given to the legatee, the legacy is specific; where the legacy is directed to be paid out of specified property, it is demonstrative.

Illustrations.

(*a*) A bequeaths to B 1,000 Rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 Rupees to be paid out of the debt due to him from W. The legacy to B is specific; the legacy to C is demonstrative.

(*b*) A bequeaths to B "ten bushels of the corn which shall grow in his field of Greenacre."

"80 chests of the Indigo which shall be made at his factory of Rampore."

"10,000 Rupees out of his five per cent. promissory notes of the Government of India."

An annuity of 500 Rupees "from his funded property."

"1,000 Rupees out of the sum of 2,000 Rupees due to him by C."

A bequeaths to B an annuity, and directs it to be paid out of the rents arising from his taluk of Ramnagar.

A bequeaths to B "10,000 rupees out of his estate at Ramnagar," or charges it on his estate at Ramnagar.

"10,000 Rupees, being his share of the capital embarked in a certain business."

F ..l of these bequests is demonstrative.

Order of payment when legacy is directed to be paid out of a fund the subject of a specific legacy.

CXXXVIII. Where a portion of a fund is specifically bequeathed and a legacy is directed to be paid out of the same fund, the portion specifically bequeathed shall first be paid

to the legatee, and the demonstrative legacy shall be paid out of the residue of the fund, and so far as the residue shall be deficient, out of the general assets of the testator.

Illustration.

A bequeaths to B 1,000 Rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 Rupees to be paid out of the debt due to him from W. The debt due to A from W is only 1,500 rupees; of these 1,500 Rupees, 1,000 Rupees belong to B, and 500 Rupees are to be paid to C. C is also to receive 500 Rupees out of the general assets of the testator.

PART XXI.

Of Ademption of Legacies.

CXXXIX. If anything which has been specifically bequeathed does not belong to the testator at the time of his death, or has been converted into property of a different kind, the legacy is adeemed; that is, it cannot take effect by reason of the subject-matter having been withdrawn from the operation of the Will.

Ademption explained.

Illustrations.

(*a*) A bequeaths to B—

"The diamond ring presented to him by C."

"His gold chain."

"A certain bale of wool."

"A certain piece of cloth."

"All his household goods which shall be in or about his dwelling-house in M Street, in Calcutta, at the time of his death."

A in his lifetime,

Sells or gives away the ring.

Converts the chain into a cup.

Converts the wool into cloth.

Makes the cloth into a garment.

Takes another house into which he removes all his goods.

Each of these legacies is adeemed.

(*b*) A bequeaths to B—

"The sum of 1,000 Rupees in a certain chest."

"All the horses in his stable."

At the death of A, no money is found in the chest, and no horses in the stable.

The legacies are adeemed.

(*c*) A bequeaths to B certain bales of goods. A takes the goods with him on a voyage. The ship and goods are lost at sea, and A is drowned.

The legacy is adeemed.

CXL. A demonstrative legacy is not adeemed by reason that the property on which it is charged by the will does not exist at the time of the death of the testator, or has been converted into property of a different kind; but it shall in such case be paid out of the general assets of the testator.

Non-ademption of demonstrative legacy.

CXLI. Where the thing specifically bequeathed is the right to receive something of value from third party, and the testator himself receives it the bequest is deemed.

Ademption of specific bequest of right to receive something from a third party.

Illustrations.

(*a*) A bequeaths to B—

"The debt which C owes him."

"2,000 Rupees which he has in the hands of D."

"The money due to him on the bond of E."

"His mortgage on the Rampore Factory."

All these debts are extinguished in A's lifetime, some with and some without his consent.

All the legacies are adeemed.

(*b*) A bequeaths to B—

"His interest in certain policies of life assurance."

A in his lifetime receives the amount of the policies. The legacy is adeemed.

CXLII. The receipt by the testator of a part of an entire thing specifically bequeathed shall operate as an ademption of the legacy to the extent of the sum so received.

Ademption *pro tanto* by testator's receipt of part of entire thing specifically bequeathed.

Illustration.

A bequeaths to B "the debt due to him by C." The debt amounts to 10,000 Rupees. C pays to A 5,000 Rupees, the one-half of the debt. The legacy is revoked by ademption, so far as regards the 5,000 Rupees received by A.

CXLIII. If a portion of an entire fund or stock be specifically bequeathed, the receipt by the testator of a portion of the fund or stock shall operate as an ademption only to the extent of the amount so received; and the residue of the fund or stock shall be applicable to the discharge of the specific legacy.

Ademption *pro tanto* by testator's receipt of portion of an entire fund of which a portion has been specifically bequeathed.

Illustration.

A bequeaths to B one-half of the sum of 10,000 Rupees due to him from W. A in his lifetime receives 6,000 Rupees, part of the 10,000 Rupees. The 4,000 Rupees which are due from W to A at the time of his death belong to B under the specific bequest.

CXLIV. Where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund is bequeathed to another legatee; if the testator receives a portion of that fund, and the remainder of the fund is insufficient to pay both the specific and the demonstrative legacy, the specific legacy shall be paid first, and the residue (if any) of the fund shall be applied, so far as it will extend, in payment of the demonstrative legacy, and the rest of the demonstrative legacy shall be paid out of the general assets of the testator.

Order of payment where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund to another, and the testator having received a portion of that fund, the remainder is insufficient to pay both legacies.

Illustration.

A bequeaths to B 1,000 Rupees, part of the debt of 2,000 Rupees due to him from W. He also bequeaths to C 1,000 Rupees to be paid out of the debt due to him from W. A afterwards receives 500 Rupees, part of that debt, and dies leaving only 1,500 Rupees due to him from W. Of these 1,500 Rupees, 1,000 Rupees belong to B, and 500 Rupees are to be paid to C. C is also to receive 500 Rupees out of the general assets of the testator.

CXLV. Where stock which has been specifically bequeathed does not exist at the testator's death, the legacy is adeemed.

Ademption where stock, specifically bequeathed, does not exist at testator's death.

Illustration.

A bequeaths to B—

"His capital stock of £1,000 in East India Stock."

"His promissory notes of the Government of India for 10,000 Rupees in their 4 per cent. loan."

A sells the stock and the notes.

The legacies are adeemed.

CXLVI. Where stock which has been specifically bequeathed, does only in part exist at the testator's death, the legacy is adeemed so far as regards that part of the stock which has ceased to exist.

Ademption *pro tanto* where stock, specifically bequeathed, exists in part only at testator's death.

Illustration.

A bequeaths to B—

"His 10,000 Rupees in the 5½ per cent. loan of the Government of India."

A sells one-half of his 10,000 Rupees in the loan in question.

One-half of the legacy is adeemed.

CXLVII. A specific bequest of goods under a description connecting them with a certain place, is not adeemed by reason that they have been

Non-ademption of specific bequest of goods described as connected

with a certain place by reason of removal.

removed from such place from any temporary cause, or by fraud, or without the knowledge or sanction of the testator.

Illustrations.

A bequeaths to B "all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." The goods are removed from the house to save them from fire. A dies before they are brought back.

A bequeaths to B "all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." During A's absence upon a journey, the whole of the goods are removed from the house. A dies without having sanctioned their removal.

Neither of these legacies is adeemed.

When removal of thing bequeathed does not constitute ademption.

CXLVIII. The removal of the thing bequeathed, from the place in which it is stated in the Will to be situated, does not constitute an ademption, where the place is only referred to in order to complete the description of what the testator meant to bequeath.

Illustrations.

A bequeaths to B all the bills, bonds, and other securities for money belonging to him then lying in his lodgings in Calcutta. At the time of his death, these effects had been removed from his lodgings in Calcutta.

A bequeaths to B all his furniture then in his house in Calcutta. The testator has a house at Calcutta and another at Chinsurah, in which he lives alternately, being possessed of one set of furniture only, which he removes with himself to each house. At the time of his death, the furniture is in the house at Chinsurah.

A bequeaths to B all his goods on board a certain ship then lying in the River Hooghly. The goods are removed by A's directions to a warehouse, in which they remain at the time of A's death.

No one of these legacies is revoked by ademption.

When the thing bequeathed is a valuable to be received by the testator from a third person; and the testator himself, or his representative, receives it.

CXLIX. Where the thing bequeathed is not the right to receive something of value from a third person, but the money or other commodity which shall be received from the third person by the testator himself, or by his representatives, the receipt of such sum of money or other commodity by the testator shall not constitute an ademption; but if he mixes it up with the general mass of his property, the legacy is adeemed.

Illustration.

A bequeaths to B whatever sum may be received from his claim on C. A

receives the whole of his claim on C, and sets it apart from the general mass of his property, the legacy is not adeemed.

Change by operation of law of subject of specific bequest between date of Will and testator's death.

CL. Where a thing specifically bequeathed undergoes a change between the date of the Will and the testator's death, and the change takes place by operation of law, or in the course of execution of the provisions of any legal instrument under which the thing bequeathed was held, the legacy is not adeemed by reason of such change.

Illustrations.

A bequeaths to B "all the money which he has in the 5½ per cent. loan of the Government of India."

The securities for the 5½ per cent. loan are converted during A's lifetime into 5 per cent. stock.

A bequeaths to B the sum of £2,000, invested in Consols in the names of trustees for A.

The sum of £2,000 is transferred by the trustees into A's own name.

A bequeaths to B the sum of 10,000 Rupees in promissory notes of the Government of India which he has power, under his marriage settlement, to dispose of by Will. Afterwards, in A's lifetime, the fund is converted into Consols by virtue of an authority contained in the settlement.

No one of these legacies has been adeemed.

Change of subject without testator's knowledge.

CLI. Where a thing specifically bequeathed undergoes a change between the date of the Will and the testator's death, and the change takes place without the knowledge or sanction of the testator, the legacy is not adeemed.

Illustration.

A bequeaths to B "all his 3 per cent. Consols." The Consols are, without A's knowledge, sold by his agent, and the proceeds converted into East India Stock. This legacy is not adeemed.

Stock specifically bequeathed, lent to a third party on condition that it shall be replaced.

CLII. Where stock which has been specifically bequeathed is lent to a third party on condition that it shall be replaced, and it is replaced accordingly, the legacy is not adeemed.

Stock specifically bequeathed, sold but replaced and belonging to the testator at his death.

CLIII. Where stock specifically bequeathed is sold, and an equal quantity of the same stock is afterwards purchased and belongs to the testator at his death, the legacy is not adeemed.

PART XXII.

Of the payment of Liabilities in respect of the Subject of a Bequest.

Non-liability of executor to exonerate specific legatees.

CLIV. Where property specifically bequeathed is subject at the death of the testator to any pledge, lien or incumbrance, created by the testator himself or by any person under whom he claims; then, unless a contrary intention appears by the Will, the legatee, if he accepts the bequest, shall accept it subject to such pledge or incumbrance, and shall (as between himself and the testator's estate) be liable to make good the amount of such pledge or incumbrance. A contrary intention shall not be inferred from any direction which the Will may contain for the payment of the testator's debts generally.

Explanation.—A periodical payment in the nature of land revenue or in the nature of rent is not such an incumbrance as is contemplated by this Section.

Illustrations.

(*a*) A bequeaths to B the diamond ring given him by C. At A's death the ring is held in pawn by D, to whom it has been pledged by A. It is the duty of A's executors, if the state of the testator's assets will allow them, to allow B to redeem the ring.

(*b*) A bequeaths to B a zamíndárí, which at A's death is subject to a mortgage for 10,000 Rupees and the whole of the principal sum, together with interest to the amount of 1,000 Rupees, is due at A's death. B, if he accepts the bequest, accepts it subject to this charge, and is liable, as between himself and A's estate, to pay the sum of 11,000 Rupees thus due.

Completion of testator's title to things bequeathed to be at cost of his estate.

CLV. Where any thing is to be done to complete the testator's title to the thing bequeathed, it is to be done at the cost of the testator's estate.

Illustrations.

(*a*) A having contracted in general terms for the purchase of a piece of land at a certain price, bequeaths it to B, and dies before he has paid the purchase-money. The purchase money must be made good out of A's assets.

(*b*) A having contracted for the purchase of a piece of land for a certain sum of money, one-half of which is to be paid down, and the other half secured by mortgage of the land, bequeaths it to B, and dies before he has paid or secured any part of the purchase-money. One-half of the purchase-money must be paid out of A's assets.

Exoneration of legatee's immoveable property for which land-revenue or rent is payable periodically.

CLVI. Where there is a bequest of any interest in immoveable property, in respect of which payment in the nature of land revenue or in the nature of rent has to be made periodically, the estate of the testator shall (as between such estate and the legatee) make good such payments or a proportion of them up to the day of his death.

Illustration.

A bequeaths to B a house, in respect of which 365 Rupees are payable annually by way of rent. A pays his rent at the usual time and dies 25 days after. A's estate shall make good 25 Rupees in respect of the rent.

Exoneration of specific legatee's stock in a Joint Stock Company.

CLVII. In the absence of any direction in the Will, where there is a specific bequest of stock in a Joint Stock Company, if any call or other payment is due from the testator at the time of his death in respect of such stock, such call or payment shall, as between the testator's estate and the legatee, be borne by such estate; but if any call or other payment shall, after the testator's death, become due in respect of such stock, the same shall, as between the testator's estate and the legatee, be borne by the legatee if he accepts the bequest.

Illustrations.

(*a*) A bequeathed to B his shares in a certain railway. At A's death there was due from him the sum of £5 in respect of each share, being the amount of a call which had been duly made, and the sum of 5s. in respect of each share, being the amount of interest which had accrued due in respect of the call. These payments must be borne by A's estate.

(*b*) A has agreed to take 50 shares in an intended Joint Stock Company, and has contracted to pay up £5 in respect of each share, which sum must be paid before his title to the shares can be completed. A bequeaths those shares to B. The estate of A must make good the payments which were necessary to complete A's title.

(*c*) A bequeaths to B his shares in a certain railway. B accepts the legacy. After A's death, a call is made in respect of the shares. B must pay the call.

(*d*) A bequeaths to B his shares in a Joint Stock Company. B accepts the bequest. Afterwards the affairs of the Company are wound up, and each shareholder is called upon for contribution. The amount of the contribution must be borne by the legatee.

(*e*) A is the owner of ten shares in a Railway Company. At a meeting held during his lifetime a call is made of ₹3 per share, payable by three instalments. A bequeaths his shares to B, and dies between the day fixed for the payment of the first and the day fixed for the payment of the second

instalment, and without having paid the first instalment. A's estate must pay the first instalment, and B, if he accepts the legacy, must pay the remaining instalments.

PART XXIII.

Of Bequests of Things described in general Terms.

CLVIII. If there be a bequest of something described in general terms, the executor must purchase for the legatee what may reasonably be considered to answer the description.

Bequest of thing described in general terms.

Illustrations.

(*a*) A bequeaths to B *a* pair of carriage horses, or *a* diamond ring. The executor must provide the legatee with such articles if the state of the assets will allow it.

(*b*) A bequeaths to B "*his* pair of carriage horses." A had no carriage horses at the time of his death. The legacy fails.

PART XXIV.

Of Bequests of the Interest or Produce of a Fund.

CLIX. Where the interest or produce of a fund is bequeathed to any person, and the Will affords no indication of an intention that the enjoyment of the bequest should be of limited duration, the principal as well as the interest shall belong to the legatee.

Bequest of the interest or produce of a fund.

Illustrations.

(*a*) A bequeaths to B the interest of his 5 per cent. promissory notes of the Government of India. There is no other clause in the Will affecting those securities. B is entitled to A's 5 per cent. promissory notes of the Government of India.

(*b*) A bequeaths the interest of his 5½ per cent. promissory notes of the Government of India to B for his life, and after his death to C. B is entitled to the interest of the notes during his life and C is entitled to the notes upon B's death.

(*c*) A bequeaths to B the rents of his lands at X. B is entitled to the lands.

PART XXV.

Of Bequests of Annuities.

CLX. Where an annuity is created by Will, the legatee is entitled to receive it for his life only, unless a contrary intention appears by the Will. And this rule shall not be varied by the

Annuity created by Will is payable for life only, unless a contrary intention appears by the Will.

circumstance that the annuity is directed to be paid out of the property generally, or that a sum of money is bequeathed to be invested in the purchase of it.

Illustrations.

(*a*) A bequeaths to B 500 Rupees a year. B is entitled during his life to receive the annual sum of 500 Rupees.

(*b*) A bequeaths to B the sum of 500 Rupees monthly. B is entitled during his life to receive the sum of 500 Rupees every month.

(*c*) A bequeaths an annuity of 500 Rupees to B for life, and on B's death to C. B is entitled to an annuity of 500 Rupees during his life. C, if he survives B, is entitled to an annuity of 500 Rupees from B's death until his own death.

Period of vesting where Will directs that an annuity be provided out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity.

CLXI. Where the Will directs that an annuity shall be provided for any person out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity for any person, on the testator's death the legacy vests in interest in the legatee, and he is entitled at his option to have an annuity purchased for him, or to receive the money appropriated for that purpose by the Will.

Illustrations.

(*a*) A by his Will directs that his executors shall out of his property purchase an annuity of 1,000 Rupees for B. B is entitled at his option to have an annuity of 1,000 Rupees for his life purchased for him, or to receive such a sum as will be sufficient for the purchase of such an annuity.

(*b*) A bequeaths a fund to B for his life, and directs that after B's death it shall be laid out in the purchase of an annuity for C. B and C survive the testator. C dies in B's lifetime. On B's death the fund belongs to the representative of C.

Abatement of annuity.

CLXII. Where an annuity is bequeathed, but the assets of the testator are not sufficient to pay all the legacies given by the will, the annuity shall abate in the same proportion as the other pecuniary legacies given by the will.

Where there is a gift of an annuity, and a residuary gift, the whole of the annuity to be first satisfied.

CLXIII. Where there is a gift of an annuity and a residuary gift, the whole of the annuity is to be satisfied before any part of the residue is paid to the residuary legatee, and, if necessary, the capital of the testator's estate shall be applied for that purpose.

PART XXVI.

Of Legacies to Creditors and Portioners.

CLXIV. Where a debtor bequeaths a legacy to his creditor, and it does not appear from the will that the legacy is meant as a satisfaction of the debt, the creditor shall be entitled to the legacy as well as to the amount of the debt.

Creditor *primâ facie* entitled to legacy as well as debt.

CLXV. Where a parent who is under obligation by contract to provide a portion for a child, fails to do so, and afterwards bequeaths a legacy to the child, and does not intimate by his will that the legacy is meant as a satisfaction of the portion, the child shall be entitled to receive the legacy as well as the portion.

Child *primâ facie* entitled to legacy as well as portion.

Illustration.

A, by articles entered into in contemplation of his marriage with B, covenanted that he would pay to each of the daughters of the intended marriage a portion of 20,000 Rupees on her marriage. This covenant having been broken, A bequeaths 20,000 Rupees to each of the married daughters of himself and B. The legatees are entitled to the benefit of this bequest in addition to their portions.

CLXVI. No bequest shall be wholly or partially adeemed by a subsequent provision made by settlement or otherwise for the legatee.

No ademption by subsequent provision for legatee.

Illustrations.

(*a*) A bequeaths 20,000 Rupees to his son B. He afterwards gives to B the sum of 20,000 Rupees. The legacy is not thereby adeemed.

(*b*) A bequeaths 40,000 Rupees to B, his orphan niece, whom he had brought up from her infancy. Afterwards, on the occasion of B's marriage, A settles upon her the sum of 30,000 Rupees. The legacy is not thereby diminished.

PART XXVII.

Of Election.

CLXVII. Where a man, by his Will, professes to dispose of something which he has no right to dispose of, the person to whom the thing belongs shall elect either to confirm such disposition or to dissent from it, and in the latter case he shall give up any benefits which may have been provided for him by the Will.

Circumstances in which election takes place.

CLXVIII. The interest so relinquished shall devolve as if it had not been disposed of by the Will in favor of the legatee, subject, nevertheless, to the charge of making good to the disappointed legatee the amount or value of the gift attempted to be given to him by the Will.

Devolution of interest relinquished by the owner.

CLXIX. This rule will apply whether the testator does or does not believe that which he professes to dispose of by his Will to be his own.

Testator's belief as to his ownership immaterial.

Illustrations.

(*a*) The farm of Sultánpur was the property of C. A bequeathed it to B, giving a legacy of 1,000 Rupees to C. C has elected to retain his farm of Sultánpur, which is worth 800 Rupees. C forfeits his legacy of 1,000 Rupees, of which 800 Rupees goes to B, and the remaining 200 Rupees falls into the residuary bequest, or devolves according to the rules of intestate succession, as the case may be.

(*b*) A bequeaths an estate to B in case B's elder brother (who is married and has children) shall leave no issue living at his death. A also bequeaths to C a jewel, which belongs to B. B must elect to give up the jewel, or to lose the estate.

(*c*) A bequeaths to B 1,000 Rupees, and to C an estate which will under a settlement belong to B if his elder brother (who is married and has children) shall leave no issue living at his death. B must elect to give up the estate, or to lose the legacy.

(*d*) A, a person of the age of 18 domiciled in British India, but owning real property in England, to which C is heir-at-law, bequeaths a legacy to C, and subject thereto devises and bequeaths to B "all his property, whatsoever and wheresoever," and dies under 21. The real property in England does not pass by the Will. C may claim his legacy without giving up the real property in England.

CLXX. A bequest for a man's benefit is, for the purpose of election, the same thing as a bequest made to himself.

Bequest for a man's benefit how regarded for the purpose of election.

Illustration.

The farm of Sultánpur Khurd being the property of B, A bequeathed it to C; and bequeathed another farm called Sultánpur Buzurg to his own executors, with a direction that it should be sold, and the proceeds applied in payment of B's debts. B must elect whether he will abide by the Will, or keep his farm of Sultánpur Khurd in opposition to it.

CLXXXI. A person taking no benefit directly under the Will, but deriving a benefit under it indirectly, is not put to his election.

A person deriving a benefit indirectly not put to his election.

Illustration.

The lands of Sultánpur are settled upon C for life, and after his death upon D, his only child. A bequeaths the lands of Sultánpur to B, and 1,000 Rupees to C. C dies intestate, shortly after the testator, and without having made any election. D takes out administration to C, and as administrator elects on behalf of C's estate to take under the Will. In that capacity he receives the legacy of 1,000 Rupees, and accounts to B for the rents of the lands of Sultánpur which accrued after the death of the testator and before the death of C. In his individual character he retains the lands of Sultánpur in opposition to the Will.

A person taking under a Will in his individual capacity, may in another character elect to take in opposition to it.

CLXXII. A person who in his individual capacity takes a benefit under the Will, may in another character elect to take in opposition to the Will.

Illustration.

The estate of Sultánpur is settled upon A for life, and after his death upon B. A leaves the estate of Sultánpur to D, and 2,000 Rupees to B and 1,000 Rupees to C, who is B's only child. B dies intestate, shortly after the testator, without having made an election. C takes out administration to B, and as administrator elects to keep the estate of Sulánpur in opposition to the Will, and to relinquish the legacy of 2,000 Rupees. C may do this, and yet claim his legacy of 1,000 Rupees under the Will.

Exception to the six last Rules.—Where a particular gift is expressed in the Will to be in lieu of something belonging to the legatee, which is also in terms disposed of by the Will, if the legatee claims that thing, he must relinquish the particular gift, but he is not bound to relinquish any other benefit given to him by the Will.

Illustration.

Under A's marriage settlement his wife is entitled, if she survives him, to the enjoyment of the estate of Sultánpur during her life.

A by his Will bequeaths to his wife an annuity of £200 during her life, in lieu of her interest in the estate of Sultánpur, which estate he bequeaths to his son. He also gives his wife a legacy of £1,000. The widow elects to take what she is entitled to under the settlement. She is bound to relinquish the annuity, but not the legacy of £1,000.

When acceptance of a benefit given by a Will constitutes an election to take under the Will.

CLXXIII. Acceptance of a benefit given by the Will constitutes an election by the legatee to take under the Will, if he has knowledge of his right to elect, and of those circumstances which would influence the judgment of a reasonable man in making an election, or if he waives inquiry into the circumstance.

Illustrations.

(*a*) A is owner of an estate called Sultánpur Khurd and has a life interest in another estate called Sultánpur Buzurg to which, upon his death, his son B will be absolutely entitled. The Will of A gives the estate of Sultánpur Khurd to B, and the estate of Sultánpur Buzurg to C. B, in ignorance of his own right to the estate of Sultánpur Buzurg allows C to take possession of it, and enters into possession of the estate of Sultánpur Khurd. B has not confirmed the bequest of Sultánpur Buzurg to C.

(*b*) B, the eldest son of A, is the possessor of an estate called Sultánpur. A bequeaths Sultánpur to C, and to B the residue of A's property. B, having been informed by A's executors that the residue will amount to 5,000 Rupees, allows C to take possession of Sultánpur. He afterwards discovers that the residue does not amount to more than 500 Rupees. B has not confirmed the bequest of the estate of Sultánpur to C.

Presumption arising from enjoyment by legatee for two years.

CLXXIV. Such knowledge or waiver of inquiry shall, in the absence of evidence to the contrary, be presumed if the legatee has enjoyed for two years the benefits provided for him by the Will without doing any act to express dissent.

Confirmation of bequest by act of legatee.

CLXXV. Such knowledge or waiver of inquiry may be inferred from any act of the legatee which renders it impossible to place the persons interested in the subject matter of the bequest in the same condition as if such act had not been done.

Illustration.

A bequeaths to B an estate to which C is entitled, and to C a coal mine. C takes possession of the mine and exhausts it. He has thereby confirmed the bequest of the estate to B.

When testator's representatives may call upon legatee to elect.

CLXXVI. If the legatee shall not, within one year after the death of the testator, signify to the testator's representatives his intention to confirm or to dissent from the Will, the representatives shall, upon the expiration of that period, require him to make his election; and if he does not comply with such requisition within a reasonable time after he has received it, he shall be deemed to have elected to confirm the Will.

Effect of non-compliance with their request within a reasonable time.

Postponement of election in case of disability.

CLXXVII. In case of disability, the election shall be postponed until the disability ceases, or until the election shall be made by some competent authority.

PART XXVIII.

Of Gifts in Contemplation of Death.

CLXXVIII. A man may dispose, by gift made in contemplation of death, of any moveable property which he could dispose of by Will. A gift is said to be made in contemplation of death, where a man who is ill and expects to die shortly of his illness, delivers to another the possession of any moveable property to keep as a gift in case the donor shall die of that illness. Such a gift may be resumed by the giver. It does not take effect if he recovers from the illness during which it was made; nor if he survives the person to whom it was made.

Property transferable by gift made in contemplation of death.

When a gift is said to be made in contemplation of death.

Such gift resumable.

When it fails.

Illustrations.

(*a*) A being ill, and in expectation of death, delivers to B, to be retained by him in case of A's death—

A watch.

A bond granted by C to A.

A Bank Note.

A promissory note of the Government of India endorsed in blank.

A Bill of Exchange endorsed in blank.

Certain mortgage deeds.

A dies of the illness during which he delivered these articles.

B is entitled to—

The watch.

The debt secured by C's bond.

The Bank Note.

The promissory note of the Government of India.

The Bill of Exchange.

The money secured by the mortgage deeds.

(*b*) A being ill, and in expectation of death, delivers to B the key of a trunk, or the key of a warehouse in which goods of bulk belonging to A are deposited, with the intention of giving him the control over the contents of the trunk, or over the deposited goods, and desires him to keep them in case of A's death. A dies of the illness during which he delivered these articles. B is entitled to the trunk and its contents, or to A's goods of bulk in the warehouse.

(*c*) A being ill, and in expectation of death, puts aside certain articles in separate parcels, and marks upon the parcels respectively the names of B and C. The parcels are not delivered during the life of A. A dies of the illness during which he set aside the parcels. B and C are not entitled to the contents of the parcels.

PART XXIX.

Of Grant of Probate and Letters of Administration.

Character and property of executor or administrator as such.

CLXXIX. The executor or administrator, as the case may be, of a deceased person, is his legal representative for all purposes, and all the property of the deceased person vests in him as such.

Administration with copy annexed of authenticated copy of Will proved abroad.

CLXXX. When a Will has been proved and deposited in a Court of competent jurisdiction, situated beyond the limits of the Province, whether in the British dominions, or in a foreign country, and a properly authenticated copy of the Will is produced, letters of administration may be granted with a copy of such copy annexed.

Probate to be granted to executor appointed by Will.

CLXXXI. Probate can be granted only to an executor appointed by the Will.

Appointment express or implied.

CLXXXII. The appointment may be express or by necessary implication.

Illustrations.

(*a*) A wills that C be his executor if B will not; B is appointed executor by implication.

(*b*) A gives a legacy to B and several legacies to other persons, among the rest to his daughter-in-law, C, and adds, "but should the within-named C be not living, I do constitute and appoint B my whole and sole executrix." C is appointed executrix by implication.

(*c*) A appoints several persons executors of his Will and Codicils, and his nephew residuary legatee, and in another Codicil are these words:—"I appoint my nephew my residuary legatee to discharge all lawful demands against my Will and Codicils, signed of different dates." The nephew is appointed an executor by implication.

Persons to whom probate cannot be granted.

CLXXXIII. Probate cannot be granted to any person who is a minor, or is of unsound mind, nor to a married woman without the previous consent of her husband.

Grant of probate to several executors simultaneously or at different times.

CLXXXIV. When several executors are appointed, probate may be granted to them all simultaneously or at different times.

Illustration.

A is an executor of B's Will by express appointment, and C an executor of it by implication. Probate may be granted to A and C at the same time, or to A first and then to C, or to C first and then to A.

CLXXXV. If a Codicil be discovered after the grant of probate, a separate probate of that Codicil may be granted to the executor, if it in no way repeals the appointment of executors made by the Will. If different executors are appointed by the Codicil, the probate of the Will must be revoked, and a new probate granted of the Will and the Codicil together.

Separate probate of Codicil discovered after grant of probate.

Procedure when different executors are appointed by the Codicil.

CLXXXVI. When probate has been granted to several executors, and one of them dies, the entire representation of the testator accrues to the surviving executor or executors.

Accrual of representation to surviving executor.

CLXXXVII. No right as executor or legatee can be established in any Court of Justice, unless a Court of competent jurisdiction within the Province shall have granted probate of the Will under which the right is claimed, or shall have granted letters of administration under the one hundred and eightieth Section.

No right as executor or legatee can be established, unless probate or letters of administration shall have been granted by a competent Court.

CLXXXVIII. Probate of a Will when granted establishes the Will from the death of the testator, and renders valid all intermediate acts of the executor as such.

Probate establishes the Will from testator's death.

CLXXXIX. Letters of administration cannot be granted to any person who is a minor or is of unsound mind, nor to a married woman without the previous consent of her husband.

Persons to whom letters of administration may not be granted.

CXC. No right to any part of the property of a person who has died intestate can be established in any Court of Justice, unless letters of administration have first been granted by a Court of competent jurisdiction.

No right to intestate's property can be established, unless administration previously granted by a competent Court.

CXCI. Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death.

From what period letters of administration entitle administrator to intestate's rights.

CXCII. Letters of administration do not render valid any intermediate acts of the administrator, tending to the diminution or damage of the intestate's estate.

Acts of administrator not validated by letters of administration.

CXCIII. When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted to any other person until a citation has been issued, calling upon the executor to accept or renounce his executorship; except that when one or more of several executors have proved a Will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

Grant of administration where executor has not renounced.

Exception.

CXCIV. The renunciation may be made orally in the presence of the Judge or by a writing signed by the person renouncing, and when made shall preclude him from ever thereafter applying for probate of the Will appointing him executor.

Form and effect of renunciation of executorship.

CXCV. If the executor renounce, or fails to accept the executorship within the time limited for the acceptance or refusal thereof, the Will may be proved and letters of administration with a copy of the Will annexed may be granted to the person who would be entitled to administration in case of intestacy.

Procedure where executor renounces or fails to accept within the time limited.

CXCVI. When the deceased has made a Will, but has not appointed an executor, or when he has appointed an executor who is legally incapable or refuses to act, or has died before the testator, or before he has proved the Will, or when the executor dies after having proved the Will, but before he has administered all the estate of the deceased, an universal or a residuary legatee may be admitted to prove the Will, and letters of administration with the Will annexed may be granted to him of the whole estate, or of so much thereof as may be unadministered.

Grant of administration to universal or residuary legatee.

CXCVII. When a residuary legatee who has a beneficial interest survives the testator, but dies before the estate has been fully administered, his representative has the same right to administration with the Will annexed as such residuary legatee.

Right to administration of representative of deceased residuary legatee.

CXCVIII. When there is no executor and no residuary

Grant of administration when there is no executor, nor residuary legatee, nor representative of such legatee.

legatee, or representative of a residuary legatee, or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate, or any other legatee having a beneficial interest, or a creditor may be admitted to prove the Will, and letters of administration may be granted to him or them accordingly.

CXCIX. Letters of administration with the Will annexed shall not be granted to any legatee other than an universal or a residuary legatee, until a citation has been issued and published in the manner hereinafter mentioned, calling on the next of kin to accept or refuse letters of administration.

Citation to be issued before grant of administration to any legatee other than universal or residuary.

CC. When the deceased has died intestate, those who are connected with him either by marriage or by consanguinity, are entitled to obtain letters of administration of his estate and effects in the order and according to the rules hereinafter stated.

Order in which connections by marriage or consanguinity are entitled to administration.

CCI. If the deceased has left a widow, administration shall be granted to the widow unless the Court shall see cause to exclude her, either on the ground of some personal disqualification, or because she has no interest in the estate of the deceased.

Administration to be granted to widow unless Court see cause to exclude her.

Illustrations.

(*a*) The widow is a lunatic, or has committed adultery, or has been barred by her marriage settlement of all interest in her husband's estate; there is cause for excluding her from the administration.

(*b*) The widow has married again since the decease of her husband; this is not good cause for her exclusion.

CCII. If the Judge think proper, he may associate any person or persons with the widow in the administration, who would be entitled solely to the administration if there were no widow.

Persons associated with widow in administration.

CCIII. If there be no widow, or if the Court see cause to exclude the widow, it shall commit the administration to the person or persons who would be beneficially entitled to the estate according to the rules for the distribution of an intestate's estate: provided that when the

Grant of administration where no widow, or widow excluded.

Proviso.

mother of the deceased shall be one of the class of persons so entitled, she shall be solely entitled to administration.

Deceased's kindred of equal degree, equally entitled to administration.

CCIV. Those who stand in equal degree of kindred to the deceased, are equally entitled to administration.

CCV. The husband, surviving his wife, has the same right of administration of her estate as the widow has in respect of the estate of her husband.

Right of widower to administration of wife's estate.

CCVI. When there is no person connected with the deceased by marriage or consanguinity who is entitled to letters of administration and willing to act, they may be granted to a creditor. [See Act VIII., 1855, s. 9.]

Grant of administration to a creditor.

CCVII. Where the deceased has left property in British India, letters of administration must be granted according to the foregoing rules, although he may have been a domiciled inhabitant of a country in which the law relating to testate and intestate succession differs from the law of British India.

Where deceased has left property in British India, administration must be granted according to the foregoing rules.

PART XXX.

Of Limited Grants.

(*a*) *Grants limited in Duration.*

CCVIII. When the Will has been lost or mislaid since the testator's death, or has been destroyed by wrong or accident, and not by any act of the testator, and a copy or the draft of the Will has been preserved, probate may be granted of such copy or draft, limited until the original or a properly authenticated copy of it be produced.

Probate of copy or draft of lost Will.

CCIX. When the Will has been lost or destroyed and no copy has been made nor the draft preserved, probate may be granted of its contents, if they can be established by evidence.

Probate of contents of lost or destroyed Will.

CCX. When the Will is in the possession of a person residing out of the Province in which application for probate is made, who has refused or neglected to deliver it up, but a copy has been transmitted to the executor,

Probate of copy where original exists.

and it is necessary for the interests of the estate that probate should be granted without waiting for the arrival of the original, probate may be granted of the copy so transmitted, limited until the Will or an authenticated copy of it be produced.

CCXI. Where no Will of the deceased is forthcoming, but there is reason to believe that there is a Will in existence, letters of administration may be granted, limited until the Will or an authenticated copy of it be produced.

Administration until the Will be produced.

(*b*) *Grants for the Use and Benefit of others having Right.*

CCXII. When any executor is absent from the Province in which application is made, and there is no executor within the Province willing to act, letters of administration, with the Will annexed, may be granted to the Attorney of the absent executor, for the use and benefit of his principal, limited until he shall obtain probate or letters of administration granted to himself.

Administration, with the Will annexed, to Attorney of an absent executor.

CCXIII. When any person to whom, if present, letters of administration, with the Will annexed, might be granted, is absent from the Province, letters of administration with the Will annexed may be granted to his Attorney limited as above-mentioned.

Administration, with the Will annexed, to Attorney of an absent person, who, if present, would be entitled to administer.

CCXIV. When a person entitled to administration in case of intestacy is absent from the Province, and no person equally entitled is willing to act, letters of administration may be granted to the Attorney of the absent person, limited as before mentioned.

Administration to Attorney of absent person entitled to administer in case of intestacy.

CCXV. When a minor is sole executor or sole residuary legatee, letters of administration, with the Will annexed, may be granted to the legal guardian of such minor or to such other person as the Court shall think fit until the minor shall have completed the age of eighteen years, at which period and not before, probate of the Will shall be granted to him.

Administration during minority.

CCXVI. When there are two or more minor executors and no executor who has attained majority, or two or more residuary legatees and no residuary legatee who has attained majority, the grant shall be limited until one of them shall have completed the age of eighteen years.

Administration until one of several minor executors or residuary legatees attains majority.

CCXVII. If a sole executor or a sole universal or residuary legatee, or a person who would be solely entitled to the estate of the intestate according to the rule for the distribution of intestates' estates, be a lunatic, letters of administration, with or without the Will annexed, as the case may be, shall be granted to the person to whom the care of his estate has been committed by competent authority, or if there be no such person, to such other person as the Court may think fit to appoint, for the use and benefit of the lunatic until he shall become of sound mind.

Administration for use and benefit of lunatic *jus habens*.

CCXVIII. Pending any suit touching the validity of the Will of a deceased person, or for obtaining or revoking any probate or any grant of letters of administration, the Court may appoint an administrator of the estate of such deceased person, who shall have all the rights and powers of a general administrator, other than the right of distributing such estate, and every such administrator shall be subject to the immediate control of the Court, and shall act under its direction.

Administration *pendente lite*.

(*c*) *For Special Purposes.*

CCXIX. If an executor be appointed for any limited purpose specified in the Will, the probate shall be limited to that purpose, and if he should appoint an Attorney to take administration on his behalf, the letters of administration with the Will annexed shall accordingly be limited.

Probate limited to purpose specified in the Will.

CCXX. If an executor appointed generally give an authority to an Attorney to prove a Will on his behalf, and the authority is limited to a particular purpose, the letters of administration with the Will annexed shall be limited accordingly.

Administration with the Will annexed limited to a particular purpose.

CCXXI. Where a person dies, leaving property of which he was the sole or surviving trustee, or in which he had no beneficial interest on his own account, and leaves no general representative, or one who is unable or unwilling to act as such, letters of administration, limited to such property, may be granted to the person beneficially interested in the property, or to some other person on his behalf.

Administration limited to property in which a person has a beneficial interest.

CCXXII. When it is necessary that the representative of a person deceased be made a party to a pending suit, and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of representing the deceased in the said suit, or in any other cause or suit which may be commenced in the same or in any other Court between the parties, or any other parties, touching the matters at issue in the said cause or suit, and until a final decree shall be made therein and carried into complete execution.

Administration limited to a suit.

CCXXIII. If, at the expiration of twelve months from the date of any probate or letters of administration, the executor or administrator to whom the same has been granted is absent from the Province within which the Court that has granted the probate or letters of administration is situate, it shall be lawful for such Court to grant, to any person whom it may think fit, letters of administration limited to the purpose of becoming and being made a party to a suit to be brought against the executor or administrator, and carrying the decree which may be made therein into effect.

Administration limited to the purpose of becoming a party to a suit to be brought against administrator.

CCXXIV. In any case in which it may appear necessary for preserving the property of a deceased person, the Court within whose district any of the property is situate, may grant to any person whom such Court may think fit, letters of administration limited to the collection and preservation of the property of the deceased, and giving discharges for debts due to his estate, subject to the directions of the Court.

Administration limited to collection and preservation of deceased's property.

CCXXV. When a person has died intestate, or leaving a Will of which there is no executor willing and competent to act, or where the executor shall, at the time of the death of such person, be resident out of the Province, and it shall appear to the Court to be necessary or convenient to appoint some person to administer the estate or any part thereof, other than the person who under ordinary circumstances would be entitled to a grant of administration, it shall be lawful for the Judge, in his discretion, having regard to consanguinity, amount of interest, the safety of the estate, and probability that it will be properly administered, to appoint such person as he shall think fit to be administrator, and in every such case letters of administration may be limited or not as the Judge shall think fit.

Appointment as administrator, of person other than the one who under ordinary circumstances would be entitled to administration.

(*d*) *Grants with Exception.*

CCXXVI. Whenever the nature of the case requires that an exception be made, probate of a Will or letters of administration with the Will annexed shall be granted subject to such exception.

Probate or administration with the Will annexed, subject to exception.

CCXXVII. Whenever the nature of the case requires that an exception be made, letters of administration shall be granted subject to such exception.

Administration with exception.

(*e*) *Grants of the Rest.*

CCXXVIII. Whenever a grant, with exception, of probate or letters of administration, with or without the Will annexed, has been made, the person entitled to probate or administration of the remainder of the deceased's estate, may take a grant of probate or letters of administration, as the case may be, of the rest of the deceased's estate.

Probate or administration of the rest.

(*f*) *Grants of Effects Unadministered.*

CCXXIX. If the executor to whom probate has been granted have died leaving a part of the testator's estate unadministered, a new representative may be appointed for the purpose of administering such part of the estate.

Grant of effects unadministered.

CCXXX. In granting letters of administration of an estate not fully administered, the Court shall be guided by the same rules as apply to original grants, and shall grant letters of administration to those persons only to whom original grants might have been made.

Rules as to grants of effects unadministered.

CCXXXI. When a limited grant has expired by effluxion of time, or the happening of the event or contingency on which it was limited, and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made.

Administration when a limited grant has expired, and there is still some part of the estate unadministered.

(*g*) *Alteration in Grants.*

CCXXXII. Errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant may be rectified by the Court, and the grant of probate or letters of administration may be altered and amended accordingly.

What errors may be rectified by the Court.

CCXXXIII. If, after the grant of letters of administration with the Will annexed, a Codicil be discovered, it may be added to the grant on due proof and identification, and the grant altered and amended accordingly.

Procedure where Codicil discovered after grant of administration with Will annexed.

(*h*) *Revocation of Grants.*

CCXXXIV. The grant of probate or letters of administration may be revoked or annulled for just cause.

Revocation or annulment for just cause, of grant of probate or administration.

Explanation.—Just cause is—1st, that the proceedings to obtain the grant were defective in substance; 2nd, that the grant was obtained fraudulently by making a false suggestion, or by concealing from the Court something material to the case; 3rd, that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant, though such allegation was made in ignorance or inadvertently; 4th, that the grant has become useless and inoperative through circumstances.

"Just cause."

Illustrations.

(*a*) The Court by which the grant was made had no jurisdiction.

(*b*) The grant was made without citing parties who ought to have been cited.

(*c*) The Will of which probate was obtained was forged or revoked.

(*d*) A obtained letters of administration to the estate of B, as his widow, but it has since transpired that she was never married to him.

(*e*) A has taken administration to the estate of B as if he had died intestate, but a Will has since been discovered.

(*f*) Since probate was granted, a later Will has been discovered.

(*g*) Since probate was granted, a Codicil has been discovered which revokes or adds to the appointment of executors under the Will.

(*h*) The person to whom probate was or letters of administration were granted has subsequently become of unsound mind.

PART XXXI.

Of the Practice in granting and revoking Probates and Letters of Administration.

CCXXXV. The District Judge shall have jurisdiction in granting and revoking probates and letters of administration in all cases within his District.

Jurisdiction of District Judge in granting and revoking probates and letters of administration.

CCXXXVI. The District Judge shall have the like powers and authority in relation to the granting of probate and letters of administration, and all matters connected therewith, as are by law vested in him in relation to any Civil suit or proceeding depending in his Court.

District Judge's powers as to the granting of probate and administration.

CCXXXVII. The District Judge may order any person to produce and bring into Court any paper or writing being or purporting to be testamentary which may be shown to be in the possession or under the control of such person; and if it be not shown that any such paper or writing is in the possession or under the control of such person, but there is reason to believe that he has the knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined respecting the same, and such person shall be bound to answer such questions as may be put to him by the Court, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like punishment under the Indian Penal Code, in case of default in not attending or in not answering such questions or not bringing in such paper or writing, as he would have been subject to in case he had been a party

District Judge may order any person to produce testamentary papers.

to a suit, and had made such default, and the costs of the proceeding shall be in the discretion of the Judge.

Proceedings of District Judge's Court in relation to probate and administration.

CCXXXVIII. The proceedings of the Court of the District Judge in relation to the granting of probate and letters of administration shall, except as hereinafter otherwise provided, be regulated so far as the circumstances of the case will admit by the Code of Civil Procedure.

When and how District Judge is to interfere for the protection of property.

CCXXXIX. Until probate be granted of the Will of a deceased person, or an administrator of his estate be constituted, the District Judge within whose jurisdiction any part of the property of the deceased person is situate, is authorized and required to interfere for the protection of such property, at the instance of any person claiming to be interested therein, and in all other cases where the Judge considers that the property incurs any risk of loss or damage; and for that purpose, if he shall see fit, to appoint an officer to take and keep possession of the property.

Probate or administration may be granted by District Judge, when testator or intestate at his death had a fixed dwelling or any property within the jurisdiction.

CCXL. Probate of the Will or letters of administration to the estate of a deceased person may be granted by the District Judge under the seal of his Court, if it shall appear by a petition verified as hereinafter mentioned of the person applying for the same, that the testator or intestate, as the case may be, at the time of his decease, had a fixed place of abode, or any property, moveable or immoveable, within the jurisdiction of the Judge.

When application is made to the Judge of a District in which the deceased had no fixed abode.

CCXLI. When the application is made to the Judge of a District in which the deceased had no fixed abode at the time of his death, it shall be in the discretion of the Judge to refuse the application, if in his judgment it could be disposed of more justly or conveniently in another District, or where the application is for letters of administration, to grant them absolutely or limited to the property within his own jurisdiction.

Conclusiveness of probate or letters of administration.

CCXLII. Probate or letters of administration shall have effect over all the property and estate, moveable or immoveable, of the deceased,

throughout the Province in which the same is granted, and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him, and shall afford full indemnity to all debtors paying their debts, and all persons delivering up such property to the person to whom such probate or letters of administration shall have been granted.

Conclusiveness of application for probate or administration, if properly made and verified.

CCXLIII. The application for probate or letters of administration, if made and verified in the manner hereinafter mentioned, shall be conclusive for the purpose of authorising the grant of probate or administration, and no such grant shall be impeached, by reason that the testator or intestate had no fixed place of abode, or no property within the District at the time of his death, unless by a proceeding to revoke the grant if obtained by a fraud upon the Court.

Petition for probate.

CCXLIV. Application for probate shall be made by a petition distinctly written in English or in the language in ordinary use in proceedings before the Court in which the application is made, with the Will annexed, and stating the time of the testator's death, that the writing annexed in his last Will and testament, that it was duly executed, and that the petitioner is the executor therein named; and in addition to these particulars, when the application is to the District Judge, the petition shall further state that the deceased at the time of his death had his fixed place of abode, or had some property, moveable or immoveable, situate within the jurisdiction of the Judge.

In what cases translation of Will to be annexed to the petition.

CCXLV. In cases wherein the Will is written in any language other than English or than that in ordinary use in proceedings before the Court, there shall be a translation thereof annexed to the petition by a translator of the Court, if the language be one for which a translator is appointed; or if the Will be in any other language, then by any person competent to translate the same, in which case such translation shall be verified by that person in the following manner:—"I (A B) do declare that I read and perfectly understand the language and

Verification of translation made by any person other than the Court translator.

character of the original, and that the above is a true and accurate translation thereof."

Petition for letters of administration.

CCXLVI. Application for letters of administration shall be made by petition distinctly written as aforesaid, and stating the time and place of the deceased's death, the family or other relatives of the deceased, and their respective residences, the right in which the petitioner claims, that the deceased left some property within the jurisdiction of the District Judge to whom the application is made, and the amount of assets which are likely to come to the petitioner's hands.

Petition for probate or letters of administration to be signed and verified.

CCXLVII. The petition for probate or letters for administration shall in all cases be subscribed by the petitioner and his pleader, if any, and shall be verified by the petitioner in the following manner or to the like effect:—

"I (*A B*), the petitioner in the above petition, declare that what is stated therein is true to the best of my information and belief."

Verification of petition for probate, by one of the witnesses to the Will.

CCXLVIII. Where the application is for probate, the petition shall also be verified by at least one of the witnesses to the Will (when procurable), in the manner or to the effect following:—

"I (*C D*), one of the witnesses to the last Will and Testament of the testator mentioned in the above petition, declare that I was present and saw the said testator affix his signature (*or* mark) thereto (*as the case may be*), (*or* that the said testator acknowledged the writing annexed to the above petition to be his last Will and Testament in my presence)."

Punishment for making false averment in petition or declaration.

CCXLIX. If any petition or declaration which is hereby required to be verified shall contain any averment which the person making the verification knows or believes to be false, such person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

District Judge may examine petitioner in

CCL. In all cases it shall be lawful for the District Judge, if he shall think proper, to examine the petitioner in person, upon oath or solemn

person and require further evidence, and issue citations to inspect the proceedings.

affirmation, and also to require further evidence of the due execution of the Will, or the right of the petitioner to the letters of administration, as the case may be, and to issue citations calling upon all persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate or letters of administration. The citation shall be fixed up in some conspicuous part of the Court-house, and also in the Office of the Collector of the District, and otherwise published or made known in such manner as the Judge issuing the same may direct.

Publication of citation.

CCLI. Caveats against the grant of probate or administration may be lodged with the District Judge; and immediately on a caveat being entered with the District Judge, a copy thereof shall be given to any other Judge to whom it may appear to the District Judge expedient to transmit the same.

Caveat against grant of probate or administration.

CCLII. The caveat shall be to the following effect:—"Let nothing be done in the matter of the estate of A B, late of , deceased, who died on the day of at , without notice to C D of ."

Form of caveat.

CCLIII. No proceeding shall be taken on a petition for probate or letters of administration after a caveat against the grant thereof has been entered with the Judge to whom the application has been made, until after such notice to the person by whom the same has been entered as the Court shall think reasonable.

After entry of caveat, no proceeding to be taken on the petition until after notice to the caveator.

CCLIV. When it shall appear to the Judge that probate of a Will should be granted, he will grant the same under the seal of his Court in manner following:—

Grant of probate to be under seal of the Court.

"I, Judge of the District of hereby make known that on the day of in the year the last Will of late of , a copy whereof is hereunto annexed, was proved and registered before me, and that administration of the property and credits of the said deceased, and in any way con-

Form of such grant.

cerning his Will, was granted to the executor in the said Will named, he having undertaken to administer the same, and to make a true inventory of the said property and credits, and to exhibit the same at or before the expiration of a year next ensuing, and also to render a true account thereof."

Grant of Letters of administration to be under seal of Court.

CCLV. And wherever it shall appear to the District Judge that letters of administration to the estate of a person deceased, with or without a copy of the Will annexed, should be granted, he will grant the same under the seal of his Court in manner following :—

Form of such grant.

"I, , Judge of the District of , hereby make known that on the day of letters of administration (with or without the Will annexed, *as the case may be*) of the property and credits of , late of , deceased were granted to , the father (*or as the case may be*) of the deceased, he having undertaken to administer the same, and to make a true inventory of the said property and credits, and to exhibit the same in this Court at or before the expiration of one year next ensuing, and also to render a true account thereof."

Administration-bond.

CCLVI. Every person to whom any grant of administration shall be committed shall give a bond to the Judge of the District Court to enure for the benefit of the Judge for the time being, with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge shall from time to time by any general or special order direct.

Assignment of administration-bond.

CCLVII. The Court may, on application made by petition and on being satisfied that the engagement of any such bond has not been kept, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise, as the Court may think fit, assign the same to some person, his executors, or administrators, who shall thereupon be entitled to sue on the said bond in his own name as if the same had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon as trustee for all persons interested, the full amount recoverable in respect of any breach thereof.

CCLVIII. No probate of a Will shall be granted until after the expiration of seven clear days, and no letters of administration shall be granted until after the expiration of fourteen clear days from the day of the testator or intestate's death.

Probate not to be granted until after seven days, and letters of administration until after fourteen days from the testator's or intestate's death.

CCLIX. Every District Judge shall file and preserve all original Wills of which probate or letters of administration with the Will annexed may be granted by him among the records of his Court, until some public registry for Wills is established; and the Local Government shall make regulations for the preservation and inspection of the Wills so filed as aforesaid.

Filing of original Wills of which probate or letters of administration with Will annexed have been granted.

CCLX. After any grant of probate or letters of administration no other than the person to whom the same shall have been granted shall have power to sue or prosecute any suit, or otherwise act as representative of the deceased, throughout the Province in which the same may have been granted, until such probate or letters of administration shall have been recalled or revoked.

Grantee of probate or letters of administration shall alone have power to sue, &c., until the same shall have been revoked.

CCLXI. In any case before the District Judge in which there is contention, the proceedings shall take, as nearly as may be, the form of a regular suit, according to the provision of the Code of Civil Procedure, in which the petitioner for probate or letters of administration, as the case may be, shall be the plaintiff, and the person who may have appeared as aforesaid to oppose the grant shall be the defendant.

Procedure in contentious cases.

CCLXII. Where any probate is or letters of administration are revoked, all payments *bonâ fide* made to any executor or administrator under such probate or administration before the revocation thereof shall, notwithstanding such revocation, be a legal discharge to the person making the same; and the executor or administrator who shall have acted under any such revoked probate or administration may retain and reimburse himself in respect of

Payment to executor or administrator before probate or letters of administration revoked.

Right of such executor or administrator to recoup himself for payments.

any payments made by him, which the person to whom probate or letters of administration shall be afterwards granted might have lawfully made.

CCLXIII. Every order made by a District Judge by virtue of the powers hereby conferred upon him, shall be subject to appeal to the High Court under the rules contained in the Code of Civil Procedure applicable to appeals.

Appeals from orders made by District Judge under powers conferred by this Act.

CCLXIV. The High Court shall have concurrent jurisdiction with the District Judge in the exercise of all the powers hereby conferred upon the District Judge.

Concurrent jurisdiction of High Court.

PART XXXII.

Of Executors of their own Wrong.

CCLXV. A person who intermeddles with the estate of the deceased, or does any other act which belongs to the office of executor, while there is no rightful executor or administrator in existence, thereby makes himself an executor of his own wrong.

Executor of his own wrong.

Exceptions. First.—Intermeddling with the goods of the deceased for the purpose of preserving them, or providing for his funeral or for the immediate necessities of his family or property, does not make an executor of his own wrong.

Second.—Dealing in the ordinary course of business with goods of the deceased received from another, does not make an executor of his own wrong.

Illustrations.

(*a*) A uses, or gives away, or sells, some of the goods of the deceased, or takes them to satisfy his own debt or legacy, or receives payment of the debts of the deceased. He is an executor of his own wrong.

(*b*) A having been appointed agent by the deceased in his lifetime to collect his debts and sell his goods, continues to do so after he has become aware of his death. He is an executor of his own wrong in respect of acts done after he has become aware of the death of the deceased.

(*c*) A sues as executor of the deceased, not being such. He is an executor of his own wrong.

CCLXVI. When a person has so acted as to become an executor of his own wrong, he is answerable to the rightful executor or administrator, or to

Liability of an executor of his own wrong.

any creditor or legatee of the deceased, to the extent of the assets which may have come to his hands, after deducting payments made to the rightful executor or administrator, and payments made in a due course of administration.

PART XXXIII.

Of the Powers of an Executor or Administrator.

CCLXVII. An executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and to distrain for all rents due to him at the time of his death, as the deceased had when living.

In respect of causes of action surviving the deceased, and rents due at the time of his death.

CCLXVIII. All demands whatsoever and all rights to prosecute or defend any action or special proceeding, existing in favour of or against a person at the time of his decease, survive to and against his executors or administrators; except causes of action for defamation, assault as defined in the Indian Penal Code, or other personal injuries not causing the death of the party; and except also cases where, after the death of the party, the relief sought could not be enjoyed, or granting it would be nugatory.

Demands and rights of action in favor of or against deceased, survive to and against his executor or administrator.

Illustrations.

(*a*) A collision takes place on a railway in consequence of some neglect or default of the officials, and a passenger is severely hurt, but not so as to cause death. He afterwards dies without having brought any action. The cause of action does not survive.

(*b*) A sues for divorce. A dies. The cause of action does not survive to his representative.

CCLXIX. An executor or administrator has power to dispose of the property of the deceased, either wholly or in part, in such manner as he may think fit.

Power of executor or administrator to dispose of deceased's property.

Illustrations.

(*a*) The deceased has made a specific bequest of part of his property. The executor, not having assented to the bequest, sells the subject of it. The sale is valid.

(*b*) The executor, in the exercise of his discretion, mortgages a part of the immoveable estate of the deceased. The mortgage is valid.

CCLXX. If an executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold.

Purchase by executor or administrator of deceased's property.

CCLXXI. When there are several executors or administrators the powers of all may, in the absence of any direction to the contrary, be exercised by any one of them who has proved the Will or taken out administration.

Powers of several executors or administrators exercisable by one.

Illustrations.

(*a*) One of several executors has power to release a debt due to the deceased.

(*b*) One has power to surrender a lease.

(*c*) One has power to sell the property of the deceased, moveable or immoveable.

(*d*) One has power to assent to a legacy.

(*e*) One has power to endorse a promissory note payable to the deceased.

(*f*) The Will appoints A, B, C, and D, to be executors, and directs that two of them shall be a quorum. No act can be done by a single executor.

CCLXXII. Upon the death of one or more of several executors or administrators, all the powers of the office become vested in the survivors or survivor.

Survival of powers on death of one of several executors or administrators

CCLXXIII. The administrator of effects unadministered has with respect to such effects the same powers as the original executor or administrator.

Powers of administrator of effects unadministered.

CCLXXIV. An administrator during minority has all the powers of an ordinary administrator.

Powers of administrator during minority.

CCLXXV. When probate or letters of administration have been granted to a married woman, she has all the powers of an ordinary executor or administrator.

Powers of married executrix or administratrix.

PART XXXIV.

Of the Duties of an Executor or Administrator.

CCLXXVI. It is the duty of an executor to perform the funeral of the deceased in a manner suitable to his condition, if he has left property sufficient for the purpose.

As to deceased's funeral.

CCLXXVII. An executor or administrator shall, within six months from the grant of probate or letters of administration, exhibit in the Court by which the same may have been granted an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person or persons to which the executor or administrator is entitled in that character, and shall, in like manner, within one year from the date aforesaid, exhibit an account of the estate, showing the assets that may have come to his hands, and the manner in which they have been applied or disposed of.

Inventory and account.

CCLXXVIII. The executor or administrator shall collect, with reasonable diligence, the property of the deceased, and the debts that were due to him at the time of his death.

Duty of executor or administrator as to property of, and debts owing to, the deceased.

CCLXXIX. Funeral expenses to a reasonable amount, according to the degree and quality of the deceased, and death-bed charges, including fees for medical attendance, and board and lodging for one month previous to his death, are to be paid before all debts.

Expenses to be paid before all debts.

CCLXXX. The expenses of obtaining probate or letters of administration, including the costs incurred for or in respect of any judicial proceedings that may be necessary for administering the estate, are to be paid next after the funeral expenses and death-bed charges.

Expenses to be paid next after such expenses.

CCLXXXI. Wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan, or domestic servant are next to be paid, and then the other debts of the deceased.

Wages for certain services to be next paid and then the other debts.

CCLXXXII. Save as aforesaid, no creditor is to have a right of priority over another, by reason that his debt is secured by an instrument under seal, or on any other account. But the executor or administrator shall pay all such debts as he knows of, including his own, equally and ratcably, as far as the assets of the deceased will extend.

Save as aforesaid, all debts to be paid equally and rateably.

CCLXXXIII. If the domicile of the deceased was not in British India, the application of his moveable property to the payment of his debts is to be regulated by the law of the country in which he was domiciled.

Application of moveable property to payment of debts, where the deceased's domicile was not in British India.

Illustration.

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 10,000 Rupees, immoveable property to the value of 5,000 Rupees, debts on instruments under seal to the amount of 10,000 Rupees, and debts on instruments not under seal to the same amount. The debts on the instruments under seal are to be paid in full out of the moveable estate, and the proceeds of the immoveable estate are to be applied as far as they will extend towards the discharge of the debts not under seal. Accordingly, one-half of the amount of the debts not under seal is to be paid out of the proceeds of the immoveable estate.

CCLXXXIV. No creditor who has received payment of a part of his debt by virtue of the last preceding Section shall be entitled to share in the proceeds of the immoveable estate of the deceased unless he brings such payment into account for the benefit of the other creditors.

Creditor paid in part under section 283 to bring such payment into account before sharing in proceeds of immoveable property.

Illustration.

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 5,000 Rupees, and immoveable property to the value of 10,000 Rupees, debts on instruments under seal to the amount of 10,000 Rupees, and debts on instruments not under seal to the same amount. The creditors holding instruments under seal receive half of their debts out of the proceeds of the moveable estate. The proceeds of the immoveable estate are to be applied in payment of the debts on instruments not under seal until one-half of such debts has been discharged. This will leave 5,000 Rupees, which are to be distributed rateably amongst all the creditors, without distinction, in proportion to the amount which may remain due to them.

Debts to be paid before legacies.

CCLXXXV. Debts of every description must be paid before any legacy.

CCLXXXVI. If the estate of the deceased is subject to any contingent liabilities, an executor or administrator is not bound to pay any legacy without a sufficient indemnity to meet the liabilities whenever they may become due.

Executor or administrator not bound to pay legacies without indemnity.

CCLXXXVII. If the assets after payment of debts, necessary expenses, and specific legacies, are not sufficient to pay all the general legacies in full, the latter shall abate or be diminished in equal proportions, and the executor has no right to pay one legatee in preference to another, nor to retain any money on account of a legacy to himself or to any other person for whom he is a trustee.

Abatement of general legacies.

Executor not to pay one legatee in preference to another.

CCLXXXVIII. Where there is a specific legacy, and the assets are sufficient for the payment of debts and necessary expenses, the thing specified must be delivered to the legatee without any abatement.

Non-abatement of specific legacy when assets sufficient to pay debts.

CCLXXXIX. Where there is a demonstrative legacy, and the assets are sufficient for the payment of debts and necessary expenses, the legatee has a preferential claim for payment of his legacy out of the fund from which the legacy is directed to be paid until such fund is exhausted, and if after the fund is exhausted, part of the legacy still remains unpaid, he is entitled to rank for the remainder against the general assets as for a legacy of the amount of such unpaid remainder.

Right under demonstrative legacy, when the assets are sufficient to pay debts and necessary expenses.

CCXC. If the assets are not sufficient to answer the debts and the specific legacies an abatement shall be made from the latter rateably in proportion to their respective amounts.

Rateable abatement of specific legacies.

Illustration.

A has bequeathed to B a diamond ring, valued at 500 Rupees, and to C, a horse, valued at 1,000 Rupees. It is found necessary to sell all the effects of the testator, and his assets, after payment of debts, are only 1,000 Rupees. Of this sum Rupees 333-5-4 are to be paid to B, and Rupees 666-10-8 to C.

CCXCI. For the purpose of abatement, a legacy for life, a sum appropriated by the Will to produce an annuity, and the value of an annuity when no sum has been appropriated to produce it, shall be treated as general legacies.

Legacies treated as general for purpose of abatement.

PART XXXV.

Of the Executor's Assent to a Legacy.

Executor's assent necessary to complete legatee's title.

CCXCII. The assent of the executor is necessary to complete a legatee's title to his legacy.

Illustrations.

(*a*) A by his Will bequeaths to B his Government paper, which is in deposit with the Bank of Bengal. The Bank has no authority to deliver the securities, nor B a right to take possession of them, without the assent the executor.

(*b*) A by his Will has bequeathed to C his house in Calcutta in the tenancy of B. C is not entitled to receive the rents without the assent of the executor.

Effect of executor's assent to a specific legacy.

CCXCIII. The assent of the executor to a specific bequest shall be sufficient to devest his interest as executor therein, and to transfer the subject of the bequest to the legatee, unless the nature or the circumstances of the property require that it shall be transferred in a particular way.

Assent may be verbal and either express or implied.

This assent may be verbal, and it may be either express or implied from the conduct of the executor.

Illustrations.

(*a*) A horse is bequeathed. The executor requests the legatee to dispose of it, or a third party proposes to purchase the horse from the executor, and he directs him to apply to the legatee. Assent to the legacy is implied.

(*b*) The interest of a fund is directed by the Will to be applied for the maintenance of the legatee during his minority. The executor commences so to apply it. This is an assent to the whole of the bequest.

(*c*) A bequest is made of a fund to A, and after him to B. The executor pays the interest of the fund to A. This is an implied assent to the bequest to B.

(*d*) Executors die after paying all the debts of the testator, but before satisfaction of specific legacies. Assent to the legacies may be presumed.

(*e*) A person to whom a specific article has been bequeathed takes possession of it and retains it without any objection on the part of the executor. His assent may be presumed.

Conditional assent.

CCXCIV. The assent of an executor to a legacy may be conditional, and if the condition be one which he has a right to enforce, and it is not performed, there is no assent.

Illustrations.

(*a*) A bequeaths to B his lands of Sultánpur, which, at the date of the Will, and at the death of A, were subject to a mortgage for 10,000 Rupees The executor assents to the bequest, on condition that B shall within a limited time pay the amount due on the mortgage at the testator's death. The amount is not paid. There is no assent.

(*b*) The executor assents to a bequest on condition that the legatee shall pay him a sum of money. The payment is not made. The assent is nevertheless valid.

Assent of executor to his own legacy.

CCXCV. When the executor is a legatee, his assent to his own legacy is necessary to complete his title to it, in the same way as it is required when the bequest is to another person, and his assent may in like manner be express or implied. Assent shall be implied if in his manner of administering the property he does any act which is referable to his character of legatee and is not referable to his character of executor.

Implied assent.

Illustration.

An executor takes the rent of a house, or the interest of Government securities bequeathed to him, and applies it to his own use. This is assent.

Assent of executor gives effect to legacy from testator's death.

CCXCVI. The assent of the executor to a legacy gives effect to it from the death of the testator.

Illustrations.

(*a*) A legatee sells his legacy before it is assented to by the executor. The executor's subsequent assent operates for the benefit of the purchaser, and completes his title to the legacy.

(*b*) A bequeaths 1,000 Rupees to B with interest from his death. The executor does not assent to this legacy until the expiration of a year from A's death. B is entitled to interest from the death of A.

Executor not bound to pay or deliver legacies until after one year from testator's death.

CCXCVII. An executor is not bound to pay or deliver any legacy until the expiration of one year from the testator's death.

Illustration.

A, by his Will, directs his legacies to be paid within six months after his death. The executor is not bound to pay them before the expiration of a year.

PART XXXVI.

Of the Payment and Apportionment of Annuities

Commencement of annuity when no time fixed by Will.

CCXCVIII. Where an annuity is given by the Will, and no time is fixed for its commencement, it shall commence from the testator's death,

and the first payment shall be made at the expiration of a year next after that event.

When payment of annuity to be paid quarterly or monthly first falls due.

CCXCIX. Where there is a direction that the annuity shall be paid quarterly or monthly, the first payment shall be due at the end of the first quarter or first month, as the case may be, after the testator's death; and shall, if the executor think fit, be paid when due, but the executor shall not be bound to pay it till the end of the year.

Dates of successive payments when first payment of an annuity directed to be made within a given time, or on a day certain.

CCC. Where there is a direction that the first payment of an annuity shall be made within one month or any other division of time from the death of the testator, or on a day certain, the successive payments are to be made on the anniversary of the earliest day on which the Will authorizes the first payment to be made; and if the annuitant should die in the interval between the times of payment, an apportioned share of the annuity shall be paid to his representative.

Apportionment where annuitant dies between times of payment.

PART XXXVII.

Of the Investment of Funds to provide for Legacies.

Investment of sum bequeathed where a legacy, not specific, is given for life.

CCCI. Where a legacy, not being a specific legacy, is given for life, the sum bequeathed shall at the end of the year be invested in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct, and the proceeds thereof shall be paid to the legatee as the same shall accrue due.

Investment of amount of general legacy, to be paid at a future time.

CCCII. Where a general legacy is given to be paid at a future time, the executor shall invest a sum sufficient to meet it in securities of the kind mentioned in the last preceding Section. The intermediate interest shall form part of the residue of the testator's estate.

Intermediate interest.

Procedure when no fund is charged with or appropriated to an annuity.

CCCIII. Where an annuity is given and no fund is charged with its payment or appropriated by the Will to answer it, a Government annuity of the specified amount shall be purchased, or, if no such annuity can be obtained, then a sum sufficient to produce

the annuity shall be invested for that purpose in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct.

Transfer to residuary legatee of amount of contingent bequest.

CCCIV. Where a bequest is contingent, the executor is not bound to invest the amount of the legacy, but may transfer the whole residue of the estate to the residuary legatee on his giving sufficient security for the payment of the legacy if it shall become due.

Investment of residue bequeathed to a person for life, without direction to invest in particular securities.

CCCV. Where the testator has bequeathed the residue of his estate to a person for life without any direction to invest it in any particular securities, so much thereof as is not at the time of the testator's decease invested in such securities as the High Court may for the time being regard as good securities, shall be converted into money and invested in such securities.

Investment of residue bequeathed to a person for life, with direction to invest in specified securities.

CCCVI. Where the testator has bequeathed the residue of his estate to a person for life with a direction that it shall be invested in certain specified securities, so much of the estate as is not at the time of his death invested in securities of the specified kind shall be converted into money and invested in such securities.

Time and manner of the conversion and investment.

CCCVII. Such conversion and investment as are contemplated by the two last preceding Sections shall be made at such times and in such manner as the executor shall in his discretion think fit; and until such conversion and investment shall be completed, the person who would be for the time being entitled to the income of the fund when so invested shall receive interest at the rate of four per cent. per annum upon the market value (to be computed as of the date of the testator's death) of such part of the fund as shall not yet have been so invested.

Interest payable until investment.

Procedure where minor is entitled to immediate payment or possession of bequest, and there is no direction to pay to any person on his behalf.

CCCVIII. Where, by the terms of a bequest, the legatee is entitled to the immediate payment or possession of the money or thing bequeathed, but is a minor, and there is no direction in the Will to pay it to any person on his behalf, the

executor or administrator shall pay or deliver the same into the Court of the District Judge, by whom the probate was or letters of administration with the Will annexed were granted, to the account of the legatee, unless the legatee be a ward of the Court of Wards; and if the legatee be a ward of the Court of Wards the legacy shall be paid into that Court to his account, and such payment into the Court of the District Judge, or into the Court of Wards, as the case may be, shall be a sufficient discharge for the money so paid; and such money when paid in shall be invested in the purchase of Government securities, which, with the interest thereon, shall be transferred or paid to the person entitled thereto, or otherwise applied for his benefit, as the Judge or the Court of Wards, as the case may be, may direct.

PART XXXVIII.

Of the Produce and Interest of Legacies.

Legatee of a specific legacy entitled to produce thereof from testator's death.

CCCIX. The legatee of a specific legacy is entitled to the clear produce thereof, if any, from the testator's death.

Exception.—A specific bequest, contingent in its terms, does not comprise the produce of the legacy between the death of the testator and the vesting of the legacy. The clear produce of it forms part of the residue of the testator's estate.

Illustrations.

(*a*) A bequeaths his flock of sheep to B. Between the death of A and delivery by his executor the sheep are shorn, or some of the ewes produce lambs. The wool and lambs are the property of B.

(*b*) A bequeaths his Government securities to B, but postpones the delivery of them till the death of C. The interest which falls due between the death of A and the death of C belongs to B, and must, unless he is a minor, be paid to him as it is received.

(*c*) The testator bequeaths all his four per cent. Government promissory notes to A, when he shall complete the age of 18. A, if he complete that age, is entitled to receive the notes, but the interest which accrues in respect of them, between the testator's death and A's completing 18, forms part of the residue.

Residuary legatee entitled to produce of residuary fund from testator's death.

CCCX. The legatee under a general residuary bequest is entitled to the produce of the residuary fund from the testator's death.

Exception.—A general residuary bequest contingent in its

terms does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy. Such income goes as undisposed of.

Illustrations.

(*a*) The testator bequeaths the residue of his property to A, a minor, to be paid to him when he shall complete the age of 18. The income from the testator's death belongs to A.

(*b*) The testator bequeaths the residue of his property to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the residue. The income which has accrued in respect of it since the testator's death goes as undisposed of.

CCCXI. Where no time has been fixed for the payment of a general legacy, interest begins to run from the expiration of one year from the testator's death.

Interest when no time is fixed for payment of a general legacy.

Exceptions.—(1.) Where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator.

(2.) Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, the legacy shall bear interest from the death of the testator.

(3.) Where a sum is bequeathed to a minor with a direction to pay for his maintenance out of it, interest is payable from the death of the testator.

CCCXII. Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed. The interest up to such time forms part of the residue of the testator's estate.

Interest when time has been fixed.

Exception.—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, and the legatee is a minor, the legacy shall bear interest from the death of the testator, unless a specific sum is given by the Will for maintenance.

CCCXIII. The rate of interest shall be four per cent. per annum.

Rate of interest.

CCCXIV. No interest is payable on the arrears of an annuity within the first year from the death of the testator, although a period earlier than the expiration of that year may have been fixed by the Will for making the first payment of the annuity.

No interest payable on arrears of annuity within first year after testator's death.

CCCXV. Where a sum of money is directed to be invested to produce an annuity, interest is payable on it from the death of the testator.

Interest payable on sum to be invested to produce annuity.

PART XXXIX.

Of the Refunding of Legacies.

CCCXVI. When an executor has paid a legacy under the order of a Judge, he is entitled to call upon the legatee to refund, in the event of the assets proving insufficient to pay all the legacies.

Refund of legacy paid under Judge's orders.

CCCXVII. When an executor has voluntarily paid a legacy, he cannot call upon a legatee to refund, in the event of the assets proving insufficient to pay all the legacies.

No refund if legacy paid voluntarily.

CCCXVIII. When the time prescribed by the Will for the performance of a condition has elapsed, without the condition having been performed, and the executor has thereupon, without fraud, distributed the assets; in such case, if further time has been allowed under the One hundred and twenty-fourth Section, for the performance of the condition, and the condition has been performed accordingly, the legacy cannot be claimed from the executor, but those to whom he has paid it are liable to refund the amount.

Refund when legacy has become due on performance of a condition within further time allowed under Section 124.

CCCXIX. When the executor has paid away the assets in legacies, and he is afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

When each legatee is compellable to refund in proportion.

CCCXX. Where an executor or administrator has given such notices as would have been given by the High Court in an administration suit, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets, or any part thereof, in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed

Distribution of assets.

to any person of whose claim he shall not have had notice at the time of such distribution; but nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, in the hands of the persons who may have received the same respectively.

Creditor may follow assets.

CCCXXI. A creditor who has not received payment of his debt may, within two years after the death of the testator, or one year after the legacy has been paid, call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies; and whether the payment of the legacy by the executor was voluntary or not.

Within what period a creditor may call upon a legatee to refund.

CCCXXII. If the assets were sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, or who has been compelled to refund under the last preceding Section, cannot oblige one who has received payment in full to refund, whether the legacy were paid to him with or without suit, although the assets have subsequently become deficient by the wasting of the executor.

When a legatee who has not received payment or who has been compelled to refund under Section 321, cannot oblige one who has received payment in full to refund.

CCCXXIII. If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, must, before he can call on a satisfied legatee to refund, first proceed against the executor if he is solvent, but if the executor is insolvent or not liable to pay, the unsatisfied legatee can oblige each satisfied legatee to refund in proportion.

When an unsatisfied legatee must first proceed against executor if solvent.

CCCXXIV. The refunding of one legatee to another shall not exceed the sum by which the satisfied legacy ought to have been reduced if the estate had been properly administered.

Limit to the refunding of one legatee to another.

Illustration.

A has bequeathed 240 Rupees to B, 480 Rupees to C, and 720 Rupees to D. The assets are only 1,200 Rupees, and if properly administered would give 200 Rupees to B, 400 Rupees to C, and 600 Rupees to D., C and D have been paid their legacies in full, leaving nothing to B. B can oblige C to refund 80 Rupees, and D to refund 120 Rupees.

Refunding to be without interest.

CCCXXV. The refunding shall in all cases be without interest.

Residue of the deceased's property after usual payments to be paid to residuary legatee.

CCCXXVI. The surplus or residue of the deceased's property after payment of debts and legacies, shall be paid to the residuary legatee when any has been appointed by the Will.

PART XL.

Of the Liability of an Executor or Administrator for devastation.

Liability of executor or administrator for devastation.

CCCXXVII. When an executor or administrator misapplies the estate of the deceased, or subjects it to loss or damage he is liable to make good the loss or damage so occasioned.

Illustrations.

(*a*) The executor pays out of the estate an unfounded claim. He is liable to make good the loss.

(*b*) The deceased had a valuable lease renewable by notice, which the executor neglects to give at the proper time. The executor is liable to make good the loss.

(*c*) The deceased had a lease of less value than the rent payable for it, but terminable on notice at a particular time. The executor neglects to give the notice. He is liable to make good the loss.

For neglect to get in any part of the deceased's property.

CCCXXVIII. When an executor or administrator occasions a loss to the estate by neglecting to get in any part of the property of the deceased, he is liable to make good the amount.

Illustrations.

(*a*) The executor absolutely releases a debt due to the deceased from a solvent person, or compounds with a debtor who is able to pay in full. The executor is liable to make good the amount.

(*b*) The executor neglects to sue for a debt till the debtor is able to plead the Act for the Limitation of Suits, and the Debt is thereby lost to the estate. The executor is liable to make good the amount.

PART XLI.

Miscellaneous.

Stamps and fees on instruments mentioned in this Act.

CCCXXIX. For every instrument or writing of any of the kinds specified in the Schedule to this Act, and which shall be made or executed after the commencement of this Act, there shall be

payable to Government a Stamp duty or fee of the amount indicated in the said Schedule.

Saving of rights, duties, and privileges of Administrator General.

CCCXXX. Nothing contained in this Act shall be deemed or taken to supersede or affect the rights, duties, and privileges of the Administrators General and Officiating Administrators General of Bengal, Madras and Bombay respectively, under or by virtue of Act VIII. of 1855 (*to amend the law relating to the office and duties of Administrator General*), Act XXVI. of 1860 (*to amend Act VIII. of* 1855). The Regimental Debts Act, 1863, and the Administrator General's Act, 1865; and it shall be the duty of the Magistrate or other Chief Officer charged with the executive administration of a district or place in criminal matters, whenever any person to whom the provisions of this Act shall apply shall die within the limits of his jurisdiction, to report the circumstances without delay to the Administrator General of the Province, retaining the property under his charge until letters of administration shall have been obtained by that Officer or by some other person, when the property is to be delivered over to the person obtaining such letters, or who may obtain probate of the Will (if any) of the deceased. [Repealed by Act XXIV., 1867, The Administrator General's Act, 1867.]

Succession to property of Hindús, Muhammadans or Buddhists and certain Wills, Intestacies and marriages not affected by this Act.

CCCXXXI. The provisions of this Act shall not apply to Intestate or Testamentary succession to the property of any Hindú, Muhammadan or Buddhist; nor shall they apply to any Will made, or any intestacy occurring before the First day of January, 1866. The Fourth Section shall not apply to any marriage contracted before the same day.

Power of Governor General to exempt any race, sect, or tribe in British India from the operation of this Act.

CCCXXXII. The Governor General of India in Council shall from time to time have power, by an order, either retrospectively from the passing of this Act, or prospectively, to exempt from the operation of the whole or any part of this Act the members of any race, sect or tribe in British India or any part of such race, sect or tribe, to whom he may consider it impossible or inexpedient to apply the provisions of this Act, or of the part of the Act mentioned in the order. The Governor General of India in Council shall also

have power from time to time to revoke such order, but not so that the revocation shall have any retrospective effect. All orders and revocations made under this Section shall be published in the Gazette of India.

SCHEDULE.

STAMPS.

		Stamps.		
Petition for probate or letters of administration where the value of the estate exceeds Rupees five hundred	Rupees	10	0	0
Ditto where the value of the estate is less than Rupees five hundred	Rupee	1	0	0
Probate or letters of administration ...	Rupees	8	0	0
Caveat	Rupees	4	0	0
Citation	Rupee	1	0	0
All petitions other than those above-mentioned	Rupee	1	0	0
Inventory	Rupee	1	0	0
Administration-bond	Rupees	8	0	0

FEE.

Translations by the Court Translator or by order of the Court, per folio of ninety words	Rupees	2	0	0

MOFUSSIL SMALL CAUSE COURTS.

ACT No. XI. OF 1865.

[*Received the assent of the G. G. on the 15th March*, 1865.

Recites expediency of consolidating the Laws relating to Small Cause Courts in the Mofussil.

1. Interprets words of Number, Gender, the words Judge, Section, Court of Small Causes, Local Government.

2. Repeals Act XLII., 1860, and Act XII., 1861, saving in some respects Courts constituted under that Act.

3—10. Empowers Local Governments, with consent of the Governor General in Council, to constitute Small Cause Courts under this Act, and (4) gives such Courts a Seal, and (5) as to where they shall be held, and (6) of what causes have cognizance up to 500 Rupees; and (7) empowers the

Government to extend the jurisdiction to 1,000 Rupees; and (8) as to causes of jurisdiction; and (9) as to when the suit is against Government; and (10) when against the Secretary of State for India.

11. Directs when service of summons on servant, &c., shall be good service.

12. Makes jurisdiction of Small Cause Court exclusive, save as to specified jurisdiction of Magistrates, &c., Village Moonsiffs, &c., Military Courts of Requests, &c., and of specified single officers in Madras and Bombay.

13, 14. Small Cause Court Judge to be appointed by Local Government, with salary to be determined by the Governor General in Council; and (14) Judge, if of 2 or more Courts, to go on Circuit.

15—17. Local Government may also invest any person with powers of Small Cause Court Judge, &c.; who (16) may have concurrent jurisdiction with Judge, and business to be distributed between them, how; and (17) remuneration of such person to be fixed by the Governor General of India in Council.

18—20. In suits under this Act Summons to be for final disposal, and no written statement, &c.; and (19) immediate execution of decree may be given; and (20) after sale of immoveable property, execution may be obtained against immoveable, how.

21—28. Decrees, &c., under this Act final, but may be set aside in specified cases, and how, or new trial may be granted; and (22) Court may reserve questions of law, for its own opinion in suits up to 500 Rupees, and for opinion of High Court in suits above 500 Rupees; and (23) may pass a decree contingent on the result of that reserved question, but not issue execution; and (24) an early day shall be fixed for reserved case being heard; and (25) parties or their Pleaders may be heard in High Court; which Court (26) shall send its judgment under seal to the Court below; and (27) costs in High Court to be costs in the cause; and (28) High Court may alter, &c., decree of Court below, and make such order as justice may require.

29—34. Local Government may appoint one the Principal Court, if more than one in a District; and (30) assigns the powers of the Principal Judge; and (31) Rules may be made by Government for two Judges sitting together; and (32) if they differ on point of law, question to be referred to High Court; on (33) any other kind of question, the Senior Judge to have the casting voice; and (34) if Judge and Person only with acting power differ, the Judge to have casting voice.

35—39. Empowers Local Government to appoint Registrar for Small Cause Court with salary; who (36) shall be Chief Ministerial Officer of the Court; and (37) in absence of Judge may receive plaints, with power to reject; and (38) take confession of judgment and enter same; and (39) receive applications for execution, and execute them, &c.

40—43. Local Government may give Registrar powers of a Judge up to 20 Rupees, and (41) in such suits he shall proceed as Judge would, in subordination to powers of Judge, in what respects; and (42) no appeal to lie, but he may reserve question, &c., for Judge; and (43) his decree may be set aside, &c., by Judge only on same grounds as Judge's might be.

44, 45. Clerk of the Court with salary may be appointed; appointment and removal to lie with the Court; and Registrar may be Clerk; and Clerk shall, (45) subject to Registrar, issue all process, keep accounts, &c.

46. High Court shall have power to make Rules and Orders, &c., for Small Cause Courts.

47. Extends Stamp Act X., 1862, Section 26, to Small Cause Courts, and Code of Civil Procedure so far as applicable.

48. Saves Small Cause Courts in Military Cantonments from Act III., 1859, Section 3, and from Act XXII., 1864, Sections 6, 7, 8.

49. Saves Courts of Requests under 27 Vic., c. 3, from this Act and from Act XXII., 1864, Sections 6, 7, 8.

50. Applies to this Act references in previous Acts to Act XLII., 1860, and procedure of this Act to be substituted for that of Act XLII., 1860.

51. Whenever Small Cause Court's business insufficient to occupy Judge fully, Local Government may invest him with other specified powers under Code of Criminal Procedure, &c.

52. Empowers Local Government to appoint Small Cause Court Judge to hear cases under Act X., 1854, arising within local limits of Court.

53. Makes its duty of Small Cause Courts to comply with requisitions of Government for Records, Returns, &c.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature, it is enacted as follows:

Interpretation clause.

I. In this Act, unless there be something repugnant in the subject or context—

Number.

Words importing the singular number include the plural, and words importing the plural number include the singular.

Gender.

Words importing the masculine gender include females.

"Judge."

"Judge" includes an Acting Judge.

"Section."

"Section" means a Section of this Act.

"Court of Small Causes."

"Court of Small Causes" means a Court constituted under this Act.

And, in every part of British India in which this Act operates,

"Local Government."

"Local Government" denotes the person authorized to administer the Executive Government in such part; and

"High Court."

"High Court" denotes the highest Civil Court of Appeal having jurisdiction therein.

Repeal of Acts XLII. of 1860, and XII. of 1861.

II. Act XLII. of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), and Act XII. of 1861 (*to amend Act XLII. of* 1860), are hereby repealed: provided that any Courts of Small Causes now in existence which shall have been constituted under Act XLII. of 1860 shall be considered as constituted under this Act within the territorial limits of the jurisdiction assigned to such Courts under the said Act XLII. of 1860, or which may hereafter be assigned to them under the next following Section, and shall be subject to all the provisions contained herein: and all suits and proceedings pending in any such Courts shall be heard and determined in the same manner as suits and proceedings are required to be heard and determined under this Act; but this Act shall not in any way invalidate or alter the effect of anything which shall have been done in any such suit or proceeding prior to the commencement of this Act.

Constitution of Small Cause Courts.

III. The Local Government may, with the previous sanction of the Governor General of India in Council, constitute for the trial of suits under this Act, Courts of Small Causes with such establishment of Officers as may be necessary, at any places within the Territories under such Government. Whenever a Court of Small Causes shall be so constituted, the Local Government shall fix the territorial limits of the jurisdiction of such Court, and may from time to time alter the limits so fixed. The Local Government may abolish any Court of Small Causes.

Limits of their territorial jurisdiction to be fixed by Local Government.

Seal of the Court.

IV. Every Court of Small Causes shall use a seal bearing the following inscription in English and in the language of the Court—"Court of Small Causes of ,"—and shall be subject to the general control and orders of the High Court.

Courts to be generally subject to the High Court.

Places where Courts to be held.

V. Courts of Small Causes shall be held at such place or places within the local limits of their respective jurisdictions, as shall from time to time be appointed by the Local Government.

VI. The following are the suits which shall be cognizable by Courts of Small Causes, namely,—claims for money due on bond for other contract, or for rent, or for personal property, or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of five hundred Rupees, whether on balance of account or otherwise; provided that no action shall lie in any such Court—

Suits cognizable by Small Cause Courts.

Proviso.

(1) On a balance of partnership account, unless the balance shall have been struck by the parties or their agents.

(2) For a share or part of a share under an intestacy, or for a legacy or part of a legacy under a Will.

(3) For the recovery of damages on account of an alleged personal injury, unless actual pecuniary damage shall have resulted from the injury.

(4) For any claim for the rent of land or other claim for which a suit may now be brought before a Revenue Officer, unless, as regards arrears of rent for which such suit may be brought, the Judge of the Court of Small Causes shall have been expressly invested by the Local Government with jurisdiction over claims to such arrears.

VII. The Local Government may extend the jurisdiction of any Court of Small Causes, in suits of the nature described in the last preceding Section, and thereby made cognizable by Courts of Small Causes, to an amount not exceeding one thousand Rupees.

Power to extend jurisdiction of Small Cause Courts to Rupees one thousand.

VIII. Courts of Small Causes may try all such suits as are described in the Sixth Section and thereby made cognizable by Courts of Small Causes, if the defendant at the time of the commencement of the suit shall dwell, or personally work for gain or carry on business, within the local limits of the jurisdiction of such Court; or if the cause of action arose within the said local limits, and the defendant, at the time of the commencement of the suit, shall by his servant or agent carry on business or work for gain within those limits.

Jurisdiction of the Courts.

Explanations.—(*a.*) Where a person has a permanent dwelling at one place, and also a lodging at another place for a temporary purpose only, he shall be deemed to dwell at both places in

respect of any cause of action arising at the place where he has such temporary lodging.

(*b*) A Corporation or Company shall be deemed to carry on business at its sole or principal office, or at any place where it has also a subordinate office, in respect of any cause of action arising at such place.

(*c*) The "business" contemplated in this Section must be carried on at some fixed place for at least a certain time.

IX. Suits against the Local Government, or against the Government of India, shall be brought in the Court having jurisdiction at the place which is the seat of such Government.

Suits against Government.

X. Suits against the Secretary of State shall be brought in the Court having jurisdiction at the place which is the seat of the Local Government for the Territories in which the cause of action arose.

Suits against the Secretary of State.

XI. Service of a summons issued under this Act, on any servant or agent by whom the defendant may carry on business or work for gain shall be deemed to be good service upon the defendant, provided that such agent or servant himself, at the time of such service, personally carries on the business or work for gain for the defendant, within the local limits of the jurisdiction of the Court in which the suit is brought.

Substituted service of summons.

XII. Wherever a Court of Small Causes is constituted under this Act, no suit cognizable by such Court shall be heard or determined in any other Court having jurisdiction within the local limits of the jurisdiction of such Court of Small Causes: provided that nothing in this Act shall be held to take away the jurisdiction which a Magistrate, or a person exercising the powers of a Magistrate, or an Assistant or Deputy Magistrate, can now exercise in regard to debts or other claims of a Civil nature, or the jurisdiction which can be exercised by Village Moonsiffs, or Village or District Punchayats, under the provisions of the Madras Code; or by Military Courts

Suits cognizable by a Court of Small Causes not to be heard by any other Court having jurisdiction within the local limits.

Saving of jurisdiction of Magistrates as to debts.

Of Village Moonsiffs and Village or District Punchayats in Madras.

Of Military Courts of Requests.

of Requests, or by Cantonment Joint Magistrates invested with Civil jurisdiction under Act III. of 1859 (*for conferring Civil jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registrars of Deeds*), or by a single Officer duly authorized and appointed under the Rules in force in the Presidencies of Madras and Bombay respectively, for the trial of small suits in Military Bazaars, in Cantonments, and Stations occupied by the troops of those Presidencies respectively; or by Punchayats in regard to suits against Military persons, according to the Rules in force in the Presidency of Madras.

Of Officers appointed to try small suits in Madras and Bombay.

Or of Military Punchayats in Madras.

XIII. Every Court of Small Causes shall (except as hereinafter provided) be held before a Judge appointed by the Local Government, and who shall receive such salary as the Governor General of India in Council may from time to time determine. Such Judge shall be the Judge either of one such Court or of two or more such Courts as the Local Government shall appoint, but except as hereinafter provided, he shall not exercise any Civil jurisdiction except under the provisions of this Act.

Judge of Court.

XIV. It shall be lawful for any Judge who is the Judge of two or more Courts of Small Causes to fix, subject to the orders of the Local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner, or other principal Civil Authority, the times at which he will go on circuit, and the dates on which his sittings in the several Courts of which he is Judge shall commence. Notice of such times and dates shall be published in the Official Gazette and at such places and in such manner as the Local Government or Chief Commissioner or other Authority as aforesaid shall think fit to direct in that behalf.

Power to Judge of several Courts to fix times and dates of circuits and sittings.

XV. The Local Government may from time to time invest any person with the powers of a Judge of a Court of Small Causes under this Act for a limited period, or for specific periods in each year only, and declare in what Court or

Local Government may invest any person, for a limited period, with powers of Judge of Court of Small Causes.

Courts of Small Causes such powers shall be exercised by such person. Any person so invested shall, in all Courts in which the Local Government shall have declared that he shall exercise the said powers, have all such powers as might in such Courts be exercised by a Judge of the said Courts appointed under the Thirteenth Section.

Powers to be exercised by person so invested.

XVI. If it shall be declared by the Local Government that any person invested under the last preceding Section with the powers of a Judge of a Court of Small Causes, shall exercise those powers in a Court of which there is a Judge appointed under the Thirteenth Section, the person so invested shall exercise a jurisdiction concurrent with that of such Judge. The Local Government shall from time to time make Rules to provide for the distribution of business between any person so invested and any Judge in whose Court it may be declared that such person shall exercise his powers, and generally for regulating and defining the duties and relative positions of Judges of Courts of Small Causes and persons so invested as aforesaid: provided always that no such Rule shall be in any way inconsistent with the provisions of this Act.

Jurisdiction to be exercised by persons so invested in Court in which there is a Judge.

XVII. Every person invested with the powers of a Judge of a Court of Small Causes under the Fifteenth Section shall receive such remuneration as the Governor General in Council shall from time to time determine. It shall not be lawful for any such person to practise as a Barrister, Attorney, Vakeel, Pleader, or Law Agent in any District or place within the territorial limits of which he is empowered to exercise the powers with which he is invested.

Remuneration of Judges and of persons invested with powers of Small Cause Court Judge, and restriction from practising within the limits.

XVIII. In all suits under this Act the summons to the defendant shall be for the final disposal of the suit, and no written statement other than the plaint shall be received unless required by the Court.

Summons.

XIX. When a decree is passed in any suit of the nature and amount cognizable under this Act, the Court passing the decree may, at the same time that it passes the decree, on the verbal application of the party in whose favour the

In suits cognizable by Small Cause Courts, Court may on the judgment creditor's application direct immediate execution against the

judgment debtor's person or moveable property.

decree is given, order immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor if he is within the local limits of the jurisdiction of the Court passing the decree, or against the moveable property of the judgment-debtor within the same limits. If the warrant be directed against the moveable property of the judgment-debtor, it may be general against any personal property of the judgment-debtor wherever it may be found within the local limits of the jurisdiction of the Court, or special against any personal property belonging to the judgment-debtor within the same limits, and which shall be indicated by the judgment-creditor.

Execution against immoveable property, if moveable property not sufficient.

XX. In the execution of a decree under this Act, if, after the sale of the moveable property of a judgment-debtor, any portion of a judgment-debt shall remain due, and the holder of the judgment desire to issue execution upon any immoveable property belonging to the judgment-debtor, the Court, on the application of the holder of such judgment, shall grant him a copy of the judgment and a certificate of any sum remaining due under it; and on the presentation of such copy and certificate to any Court of Civil Judicature having general jurisdiction in the place in which the immoveable property of the judgment-debtor is situate, such Court shall proceed to enforce such judgment according to its own rules and mode of procedure in like cases.

Decision in suits tried under this Act to be final.

XXI. In suits tried under this Act, all decisions and orders of the Court shall be final: provided that in any case in which a decree shall be passed *ex-parte* against a defendant, he may within thirty days after any process for enforcing the decree has been executed give notice to the Court by which the decree was passed, of his intention to apply to the Court at its next sitting for an order to set it aside; and if, on the application being made to the Court at its next sitting, it shall be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was heard, the Court shall pass an order setting aside the decree and shall appoint a day for proceeding with the suit,

Ex-parte decree may be set aside.

upon such terms as to costs or otherwise as shall to the Court seem proper: provided also that it shall be competent to the Court, if it shall think fit, in any case not falling within the proviso last aforesaid, to grant a new trial, if notice of the intention to apply for the same at the next sitting of the Court be given to the Court within the period of seven days from the date of the decision, and if the same be applied for at the next sitting of the Court; but no such new trial shall be granted where the party applying for the same is the defendant or one of the defendants, unless he shall with his notice of application deposit in Court the amount for which a decree shall have been passed against him, including the costs (if any) of the opposite party.

New trial.

On deposit of debt and costs.

XXII. If in the trial of any suit under this Act any question of law, or usage having the force of law, or any question as to the construction of a document which construction may affect the merits of the decision, shall arise, the Court, in suits for an amount not exceeding five hundred Rupees, may, either of its own motion or on the application of any of the parties to the suit, and in suits for an amount greater than five hundred Rupees, shall draw up a statement of the case and refer it, with the Court's own opinion, for the decision of the High Court.

Power to refer questions of law, &c., to High Court.

XXIII. The Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made, until the receipt of the order of the High Court.

Power to pass decree contingent upon the opinion of the High Court.

XXIV. The High Court shall fix an early day for the hearing of the case, and shall cause notice of such day to be placed in the Court house. [Sections XXIV., XXV., XXVI., XXVII. and XXVIII., are extended by references under Act X., 1867. See note at end of this Act.]

High Court to fix day for the hearing.

XXV. The parties to the case may appear and be heard in the High Court in person or by Pleader.

Parties may appear and be heard in person or by pleader.

Decision of High Court to be transmitted.

XXVI. The High Court, when it has heard and considered the case, shall send a copy of its judgment, under the seal of the Court, to the Court by which the reference was made; and such Court shall, on the receipt of the copy, proceed to dispose of the case conformably to the decision of the High Court.

Costs of reference to High Court.

XXVII. Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

Power to High Court to alter or set aside order or decree made in the matter.

XXVIII. When a case is referred to the High Court under the Twenty-second Section, the High Court may alter, cancel, or set aside any order or decree which the Court stating the case may have made in the suit out of which the reference arose, and may make such order as the justice of the case may require.

Power to appoint one of the Courts of a District to be the Principal Court.

XXIX. Whenever more Courts than one are constituted in any District under this Act, the Local Government may appoint one of the same Courts to be the Principal Court of Small Causes in such District.

Judge of Principal Court may sit with Judge of any other Court in the District for the trial of reserved suits.

XXX. The Judge of the Principal Court of Small Causes in any District may sit with the Judge of any other Court of Small Causes in the same District, or with a person invested with the powers of a Judge as aforesaid in such Court, for the trial and determination of any suit cognizable under this Act, and shall so sit for the trial and determination of any such suit which the Judge of such other Court or other person as aforesaid may reserve for trial by himself and the Judge of the Principal Court of Small Causes.

Local Government may make Rules providing that two Judges shall sit together for trial of certain suits.

XXXI. The Local Government may from time to time make rules providing that in such cases as shall be prescribed in such Rules, two Judges or a Judge and a person invested with the powers of a Judge as aforesaid, shall sit together and hear and dispose of suits and applications.

Procedure when two Judges differ on a point of law.

XXXII. If two Judges, or a Judge and a person invested with the powers of a Judge as aforesaid, sit together and they concur in the decision

or order to be passed, such decision or order shall be the decision or order of the Court: but if they shall differ on a point of law, or usage having the force of law, or in construing a document, the construction of which may affect the merits of the decision, they shall submit a case for the opinion of the High Court on the point of difference between them, in the manner prescribed in the Twenty-second Section of this Act; and the provisions applicable to a reference to the High Court, contained in the Twenty-second, Twenty-third, Twenty-fourth, Twenty-fifth, and Twenty-sixth Sections of this Act, shall be applicable to every reference made under this Section.

Casting voice in case of difference between two Judges on a question of fact.

XXXIII. If two Judges differ on any matter other than the matters above-mentioned, the Judge, who is senior in respect of date of appointment as a Judge of a Court of Small Causes shall have the casting voice.

Casting voice in case of difference on a question of fact between a Judge and a person invested with a Judge's powers.

XXXIV. If a Judge and a person invested with the powers of a Judge as aforesaid, differ on any matter other than the matters above-mentioned, the Judge shall have the casting voice.

Appointment of Registrar.

XXXV. It shall be lawful for the Local Government to appoint to any Court of Small Causes an Officer who shall be called the Registrar of the Court, and who shall be paid such salary as shall from time to time be authorized in that behalf by the Governor General of India in Council.

Duties of Registrar.

XXXVI. The Registrar of every Court of Small Causes shall be the Chief Ministerial Officer of the Court. In addition to any other duties and powers herein imposed or conferred upon the Registrar, he shall, subject to the provisions contained in the next following Section, receive all plaints presented to the Court; issue notice of suit to the defendants; receive any documents which the parties may wish to put in; and issue process for the attendance of their witnesses. He shall likewise keep lists of all causes coming on for trial, and fix such days for their being heard respectively, as may seem to him fit. He may also receive notices under the Twenty-first Section.

Procedure where Registrar thinks plaint defective in certain particulars.

XXXVII. If, when the Judge is absent on duty and there is no person invested with the powers of a Judge as aforesaid, the Registrar shall be of opinion that any plaint presented to the Court is defective in any of the particulars mentioned in Sections Twenty-seven to Thirty-two, both inclusive, of the Code of Criminal Procedure, he may reject the same. But it shall be lawful for the Judge or for any person invested with the powers of a Judge as aforesaid, to reject any plaint which may have been received by the Registrar, and to receive any plaint which may have been rejected by him: provided that such reception or rejection (as the case may be) by the Registrar shall, in the opinion of such Judge or other person empowered as aforesaid, have been erroneous, and that an application to set the same aside shall be made at the first subsequent sitting in the said Court of a Judge or other person duly empowered as aforesaid.

Proviso.

Registrar may receive and enter up judgments by confession.

XXXVIII. If a suit shall have been instituted in a Court of Small Causes, and the defendant shall have been duly summoned to appear and answer therein, and if before the day appointed for the hearing of such suit, the defendant or his agent duly authorized in that behalf shall appear before the Registrar of the Court, and admit the plaintiff's claim and apply for leave to confess judgment, it shall be lawful for the Registrar, if the Judge be absent on duty, and there be no person invested with the powers of a Judge as aforesaid, to enter on the record a decree for the plaintiff by confession, and such decree shall have the like force and effect as a decree for the plaintiff would have had if the suit had been heard by the Judge and a decree passed by him for the plaintiff: provided that in every case, before passing a decree under this Section, it shall be the duty of the Registrar fully to satisfy himself of the service of the summons, of the identity of the parties, and of their good faith in appearing before him.

Proviso.

Execution of decrees by Registrar.

XXXIX. The Registrar, if the Judge be absent on duty and there be no person invested with the powers of a Judge as aforesaid, shall also

receive applications for the execution of decrees passed by the Judge, or other person empowered as aforesaid, of the Court of which he is the Registrar, and, subject to any orders which he may receive from the Judge or such other person, shall execute such decrees in the same manner as the Judge might execute them. No appeal shall lie from any order passed by the Registrar under this Section; but the Judge or other person empowered as aforesaid may, within three calendar months from the making of the order, of his own motion reverse or modify it.

Power to invest Registrar with jurisdiction of Small Cause Court Judge in certain cases.

XL. The Local Government may invest any Registrar with the powers of a Judge of a Court of Small Causes in Suits arising within the local limits of the jurisdiction of the Court of which he is the Registrar, provided that the amount or value of the claim shall not exceed twenty Rupees. The Registrar shall exercise such powers subject to the general control of the Judge, or, when there is no Judge, of any person invested with the powers of a Judge as aforesaid.

Hearing of suits cognizable by Registrar.

XLI. The suits cognizable by the Registrar under the last preceding Section shall be set down for hearing before such Registrar, and he shall hear and determine, such suits and execute the decrees made therein, in such manner in all respects as the Judge of the Court might hear, determine and execute the same respectively: provided that the Judge, or, when there is no Judge, the person invested with the powers of Judge, whenever he thinks proper, may transfer to his own file any suit on the file of the Registrar, and may hear and determine the same.

Transfer from Registrar's to Judge's file.

No appeal from decision of Registrar under last Section; but in cases of doubt, he may submit statement for opinion of Judge.

XLII. No appeal shall lie from any order or decision made or passed by the Registrar, in any case heard or disposed of by him: but in any case in which the Registrar shall entertain any doubt upon any question of law, or usage having the force of law, or as to the construction of a document which construction may affect the merits of the decision, he shall be at liberty to state a case for the opinion of the Judge, or, when there is no Judge, of the person invested with the powers of a Judge as aforesaid, in like manner as the

Judge may, under the Twenty-second Section of this Act, state a case for the opinion of the High Court; and all the provisions herein contained relative to the stating of a case by the Judge, shall apply, *mutatis mutandis*, to the stating of a case by the Registrar.

Provisions applicable to such reference.

XLIII. A decree passed by a Registrar under the Thirty-eighth Section may be set aside by the Judge of the Court, or, when there is no Judge, by the person invested with the powers of a Judge as aforesaid, in such manner and on such grounds only as it might be set aside if it were a decree passed at the hearing of the cause by the Judge or other person empowered as aforesaid.

Setting aside decree by a Registrar under Section 38.

XLIV. An Officer to be styled the Clerk of the Court may be appointed to any Court of Small Causes on such salary as shall be authorized by the Governor General of India in Council. The appointment and removal of such Officer shall rest with the Court, subject to the approval of the Local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner or other principal Civil authority. The Registrar of any Court of Small Causes may also be the Clerk of the Court.

Appointment and removal of Clerk of the Court.

XLV. When a Clerk is appointed to any Court of Small Causes, such Clerk shall, subject to the orders of the Court and of the Registrar if there be a Registrar, issue all Summonses, Warrants, Orders, and Writs of Execution, and keep an account of all proceedings of the Court, and shall take charge of and keep an account of all moneys payable or paid into or out of Court, and shall enter an account of all such moneys in a book belonging to the Court to be kept by such Clerk for that purpose.

Duties of Clerk.

XLVI. The High Court shall have power to make and issue general Rules for regulating the practice and proceedings of Courts of Small Causes, and also to prescribe forms for every proceeding in the said Courts for which it shall think that forms should be provided, and for keeping all books, entries, and accounts to be kept by the Officers, and from time to time to

High Court empowered to make rules of practice, &c.

alter any such Rule or form. Provided that such Rules and forms be not inconsistent with the provisions of this Act or of any other law for the time being in force.

Provisions of Section 26 of Act X. of 1862, and of Act VIII. of 1859, made applicable to cases cognizable under this Act.

XLVII. The Twenty-sixth Section of Act X. of 1862 (*to Consolidate and Amend the Law relating to Stamp Duties*), and, except as hereinbefore provided, the provisions of the Code of Civil Procedure shall, so far as the same are or may be applicable, extend to all suits and proceedings under this Act.

Saving of Act XI. of 1841, Section 17.

XLVIII. Nothing in the Second Section of the said Act No. III. of 1859, or the Sixth, Seventh, and Eight Sections of Act No. XXII. of 1864 (*to make provision for the Administration of Military Cantonments*), relating to the establishment of Courts of Small Causes in Military Cantonments, shall be held to affect so much of Act No. XI. of 1841 (*for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and Soldiers in the service of the East India Company*), as declares that in places beyond the frontier of the Territories of the East India Company, actions of debt and other personal actions may be brought before the Military Courts therein mentioned, against persons so amenable as therein mentioned, for any amount of demand.

Saving of jurisdiction of Courts of Requests.

XLIX. Nothing in this Act, nor in the Sixth, Seventh, and Eighth Sections of the said Act XXII. of 1864, shall be held to affect the jurisdiction of any Court of Requests convened under the Hundred and third Section of the Statute 27 Vic., cap. 3, or the corresponding Section in any other Statute for the time being in force, for punishing mutiny and desertion, and for the better payment of the Army and their quarters, or the powers of a Commanding Officer under any such Statute to assemble such Courts.

Reference in previous Acts to Act XLII. of 1860 to be read as applying to this Act.

L. When in any Act passed prior to the coming into operation of this Act reference is made to Act XLII. of 1860, such reference shall be read as applying to this Act, and when any procedure is directed to be in accordance with

the provisions of Act XLII. of 1860, such procedure shall be deemed to be directed to be in accordance with the provisions of this Act.

Power to give a Small Cause Court Judge the powers of a Principal Sudder Ameen or a Magistrate.

LI. Whenever the state of business in any Court of Small Causes, the Judge of which shall be the Judge of such Court only, is not sufficient to occupy his time fully, the Local Government may invest him within such limits as it shall from time to time appoint, in addition to his powers as such Judge, with the powers of a Magistrate as defined in the Code of Criminal Procedure, or, in the Regulation Provinces, with the powers of a Principal Sudder Ameen, or, in the Non-Regulation Provinces, with the powers of an Officer exercising the like or nearly the like powers as those of a Principal Sudder Ameen.

Power to give Small Cause Court Judge jurisdiction to hear claims under Act X. of 1859.

LII. In the places in which the provisions of Act X. of 1859 (*to amend the Law relating to the recovery of Rent in the Presidency of Fort William in Bengal*) are in force, the Local Government may empower any Judge of a Court of Small Causes to hear and determine, under the rules contained in the said Act X. of 1859 applicable to trials before a Collector, and subject to the same regular and special appeal, the claims cognizable under such Act arising within the local limits of the jurisdiction of such Court. Any Judge so empowered shall exercise all the powers of a Collector under the said Act X. of 1859, except the power of hearing appeals.

Small Cause Courts to furnish records, &c., called for by Local Government or High Court.

LIII. Courts of Small Causes shall comply with such requisitions as may from time to time be made by the Local Government or the High Court for Records, Returns, and statements in such form and manner as such Government or Court may deem proper.

By Act X., 1867, power is given to refer to High Court, questions arising previous to the hearing of suits, or in the execution of decrees or orders.

HIGH COURT, FORT WILLIAM.—PRISONERS.

ACT No. XII. OF 1865.

[*Received the assent of the G. G. on the 15th March*, 1865.

Recites expediency of Prisoners in Calcutta being committed to the Custody of an Officer appointed by Government instead of to the Sheriff.

1. Interprets words High Court, Magistrate.

2. Repeals Act XXVIII., 1862, Sections 47, 48, 49, 50, 51, 52, and Act XXV., 1863.

3. Commitments to be no longer to Sheriff, nor warrants of arrest directed to him.

4—6. Authorizes Bengal Government to appoint a Superintendent of Presidency Gaol, for reception and custody of Prisoners, to whom (5) shall be delivered Prisoners under sentence, &c., and (6) for intermediate custody, if to be transported.

7. Calcutta Magistrates to commit prisoners under sentence to same custody.

8. Superintendent to detain Prisoners according to the warrant.

9. Prisoners committed by Justice of the Peace for trial at Sessions to be delivered to Superintendent with warrant.

10, 11. Prisoners under arrest by Civil Process to be delivered to Superintendent, with Copy of Warrant, who (11) shall detain such person according to exigency of warrant.

12. Transfers to custody of Superintendent persons confined in Gaol at time of commencement of this Act.

13. Warrant of Commitment of State Prisoners under Bengal Regulation III., 1818, may be directed to Superintendent.

14. Extends this Act to persons in prison, or liable to be so, under Insolvent Debtors' Act, 11 V., c. 21.

15, 16. Act to come into operation 1st April, 1865, and (16) may be extended to Madras and Bombay.

Repealed by Act XII., 1867.

HIGH COURTS' CRIMINAL PROCEDURE AMENDMENT ACT, 1865.

ACT No. XIII. OF 1865.

[*Received the assent of the G. G. on the 21st March*, 1865.

Recites expediency of amending Criminal Procedure of High Court of Original Jurisdiction, and of providing for exercise of Original Criminal Jurisdiction under Commission out of Presidency Towns.

Preliminary, 1, 2.

1. Entitles Act, High Courts' Criminal Procedure Act, 1865.

2. Interprets words High Court, Chief Justice, Judge, Registrar, Magistrate, Clerk of the Crown, British India, and gives rule as to words of gender and number.

Of Charges when the Accused is committed in Presidency Town, 3—8.

3—6. Committing Magistrate to send to Clerk of the Crown a written instrument of charge signed by him; which (4) the Clerk of the Crown shall consider, &c., and may amend, and copy, if required, shall be given to accused, as also (5) copy of the Depositions, &c.; and (6) upon such charge the accused shall be tried.

7. Interprets the word Indictment in Act XVIII., 1862, to mean "charge."

8. Judge may order entry equivalent to a *nolle prosequi*, on charge, if clearly unsustainable, and as to effect of such entry.

Of Grand Juries, 9, 10.

9, 10. Abolishes the Grand Jury, saving (10) any Grand Jury already summoned.

Of Juries in Presidency Towns, 11—18.

11. Charge for offence punishable with death to be tried by Special Jury, and for any other offence, if ordered by Judge.

12. Continues the Jury Lists for the current year to end of year, and makes the current Grand Jury the Special Jury List for the year.

13. Directs that no new names be added to the Special Jury List till it is reduced below 200 names.

14. Exempts Special Jurors from serving on Common Juries.

15—18. Directs the Clerk of the Crown, &c., before 1st April in each year to prepare new Jury List, and before 15th April a Special Jury List; and (16) gives that Officer full discretion in the matter; (17) Annual List to be published in Gazette and at Court House; and (18) thirty-six Special Jurors and seventy-two Common Jurors to be summoned for each Session.

Of Challenges of Jurors in the Presidency Towns, 19—21.

19, 20. Gives 20 peremptory challenges in Common and 10 in Special Juries, but no Challenge to the array, and defines the grounds of challenge, 1, 2, 3; and (20) challenges, other than peremptory, to be tried, &c.

21. Saves, except as above, all the powers of the High Court as to Juries, and gives High Court power to make Rules.

Of Sittings under a Commission, 22—46.

22. Empowers the Governor General in Council to issue Commissions to High Court Judges of Bengal for Circuit trials, authorizing the Judges to

hold sittings in places to be named in such Commissions, and there to exercise same jurisdiction as in Presidency, subject to provisions in Section 28 and following Sections.

23, 24. Authorizes Governor in Council of Madras, and Governor in Council of Bombay to issue like Commissions for those Presidencies.

25. Authorizes the High Court to allot to the Judge or Judges acting under such Commission such part of the extraordinary original Civil jurisdiction and Civil and Appellate jurisdiction, and Jurisdiction of revision and reference of the High Court, as may be conveniently exercised on Circuit.

26. Directs that the Commission should specify the dates for the Judges on Circuit to remain in Circuit Town.

27. Authorizes the appointment of an Associate Judge to sit with the High Court Judge, but the latter to preside, conduct the case, and pronounce judgment.

28. Directs Justices in case of commitment of European British subjects to send the proceedings to the Clerk of the Crown, who shall obtain the orders of the Court as to place of trial, if Commission has issued, &c.

29. Provides as to the effect of the charge, and for entering a *nolle prosequi* if it be unsustainable.

30. Directs as to the Gaol to which commitments of European British subjects shall be.

31. Empowers the High Court to direct the commitment, &c., of European British subjects to what place both for trial and intermediate custody; and notice thereof to be given to the Clerk of the Crown.

32, 33. Gives the Circuit Judges the same jurisdiction in respect of persons committed for trial on Circuit as High Court as might be exercised in ordinary place of trial, but trial to be according to Code of Criminal Procedure, except as is excepted.

34. All trials before Circuit Judge to be by Jury.

35—37. On notice from Government, of intention to issue Commission under the Act, High Court shall issue notice to Zillah Sessions Judge, who shall take prescribed measures for summoning Jurors, and in addition, if necessary to make up the required number, Commissioned and Non-Commissioned Officers, with consent of Commanding Officer; (37) the majority of the Jury empannelled to try European British subject to be Europeans or Americans, and on every trial Jury to consist of 12, of whom a majority of nine shall be necessary for verdict of guilty, and in default of such majority, prisoner to be acquitted.

38. Acts not of a judicial character requiring to be done during trial may be done by Clerk of the Crown.

39, 40. Exempts from operation of Section 380 of the Code of Criminal Procedure sentences of death and convictions of offence punishable with death in Circuit trial; and (40) exempts from operation of Chap. 26 of same Code judgments in Circuit trial.

41. Empowers Circuit Judge to reserve any question of law or of the admissibility of evidence for decision of the High Court. And directs

proceeding after sentence if no question is reserved. And if question is reserved, proceedings to be according to Code of Criminal Procedure.

42. Extends Code of Criminal Procedure to the constitution, &c., of Juries for Circuit trials, save as otherwise directed by this Act.

43. High Court Judge on Circuit may direct the associate Judge to try any person not being European British subject, who would be triable by himself.

44. Empowers the Governor General in Council to appoint by Commission under this Act any Barrister of not less than 5 years' standing to hold sittings on Circuit, which Barrister shall have same powers as he would have had if a High Court Judge.

45, 46. Act to commence on date to be appointed by Notification in Gazette; but (46) not to extend to Straits' Settlements.

Preamble.

Whereas it is expedient to amend the procedure of the High Courts of Judicature at Fort William in Bengal, at Madras, and at Bombay, in the exercise of their original Criminal jurisdiction, and also to provide for the exercise by such Courts of original Criminal jurisdiction under the Commission of the Governor General of India in Council, or of either of the Governors in Council of Madras and Bombay, in places other than the Presidency Towns, or at several such places by way of circuit, it is enacted as follows:

Preliminary.

Short title.

I. This Act may be cited as "The High Courts' Criminal Procedure Amendment Act, 1865."

Interpretation clause.

II. In this Act, unless there be something repugnant in the subject or context—

"High Court."

"High Court" denotes Her Majesty's High Courts of Judicature at Fort William in Bengal, at Madras, and at Bombay, respectively.

"Chief Justice." "Judge," &c.

"Chief Justice," "Judge," "Registrar," and other words denoting any particular Officer, respectively include any person for the time being authorized to act as such Chief Justice, Judge, Registrar, or other Officer.

"Magistrate."

"Magistrate" denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure, and includes Police Magistrates in any Presidency Town.

"Clerk of the Crown" includes, besides such Officer, a Crown Prosecutor and any Officer specially appointed by the Governor General of India in Council or the Governor in Council of Madras or Bombay to discharge the functions given by this Act to the Clerk of the Crown, in respect of any sittings of a Judge or Judges of the High Court in a place other than the usual place of sitting, or in respect of any sittings of a Barrister under the Forty-fourth Section of this Act.

"Clerk of the Crown."

"British India" denotes the Territories which are or may become vested in Her Majesty or her successors under the Statute 21 and 22 Vic., cap. 106, except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"British India."

Words importing the masculine gender include females, words in the singular number include the plural, and words in the plural number include the singular.

Gender and Number.

Of charges where the Accused is committed in a Presidency Town.

III. Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any person for trial before the High Court for an offence committed, or which, according to the law, may be dealt with as if it had been committed within the local limits of its ordinary original Civil jurisdiction, shall, together with all examinations, informations, bailments, and recognizances now required to be delivered to such Court before the trial, deliver to the Clerk of the Crown a written instrument of charge signed by him stating for what offence such person is so committed or held to bail.

Charge to be delivered to Clerk of the Crown with commitment within the local limits of the ordinary original Civil jurisdiction.

IV. The Clerk of the Crown shall peruse and consider the charge, and may, if he consider it necessary or expedient so to do, amend, alter, or add to the same. The charge, with such amendments, alterations, or additions, if any, shall be recorded in the High Court, and the person charged shall be entitled to have a copy of such charge, with such amendments, alterations, or additions (if any) gratis.

Clerk of the Crown to consider and, if he will, to amend, alter, or add to the charge.

Charge with amendments, alterations, or additions (if any) to be recorded.

V. The person charged shall also be entitled to copies of the examinations of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Accused to have copies of examinations.

VI. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, and (subject to the provisions contained in the eighth Section of this Act) shall be arraigned at suit of the Crown, and the verdict shall be recorded thereupon.

Effect of charge.

VII. In Act XVIII. of 1862 (*to repeal Act XVI. of* 1852 *in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature*), the word "indictment" shall be understood to include the word "charge" and all the provisions of the said Act shall apply to charges recorded as aforesaid and the trial of such charges.

Provisions of Act XVIII. of 1862 as to indictments to apply to charges preferred under this Act.

VIII. When any such charge shall have been recorded in the High Court as aforesaid, and shall at any time before the person charged is arraigned appear to the Judge of the High Court who would in ordinary course try the same, to be clearly unsustainable, an entry to that effect may be made on the charge by such Judge. Such entry may be made without the fiat of the Advocate-General, and shall have the effect of a *nolle prosequi* upon the charge, but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

Nolle prosequi on unsustainable charge.

Of Grand Juries.

IX. From and after the date on which this Act shall come into operation, no warrant or precept shall be issued to the Sheriff or other Officer directing him to summon any persons to attend and serve as Grand Jurors. All persons who, but for this Act,

After commencement of this Act, Grand Jury not to be summoned.

would have been exempt from serving on Common Juries shall be liable, except as hereinafter provided, to serve on such Juries.

No one to be charged on the presentment or inquisition of Grand Jurors, unless they have been summoned before the commencement of this Act.

X. No person shall be brought before the High Court on the presentment or inquisition of Grand Jurors, unless such presentment or inquisition shall have been made by Grand Jurors who shall have been duly summoned before this Act comes into force. Provided that if any precept for summoning a Grand Jury shall have been issued for the then next coming Sessions of the High Court, such Grand Jury shall proceed at such Sessions as if this Act had not passed.

Of Juries in Presidency Towns.

Certain trials to be held before Special Jurors.

XI. Every person tried in a Presidency Town upon a charge of having committed an offence which is punishable with death, or upon any other charge if a Judge of the High Court shall so order, shall be tried before a Special Jury.

The Jurors' Book for the current year to be taken as giving the first list of Jurors and Special Jurors.

XII. The Jurors' Book for the year current when this Act comes into force, shall be taken as containing a correct general list of persons qualified and liable to serve as Jurors under this Act; and those persons whose names are entered in the said Jurors' Book as being privileged to serve on Grand or Special Juries only, shall be deemed to be persons privileged and liable to serve only as Special Jurors under this Act; and a list of such last-mentioned persons, to be called the "Special Jurors' List," shall forthwith and subject to such rules as shall be prescribed by the High Court, be prepared by the Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct.

The number of Special Jurors in the first list to be allowed to die down to two hundred.

XIII. The number of persons included in the Special Jurors' List prepared as in the last preceding Section is provided, shall be permitted gradually from year to year to diminish until the whole number of names remaining on such list shall not exceed two hundred; and no new name shall be added to such list until the number shall have been so diminished by the death or change of residence

of the persons originally included in the list, or by other loss of such qualifications as gave them the privilege of serving only as Grand or Special Jurors. After the number shall once have been reduced as aforesaid, the names of not more than two hundred persons shall ever at any one time be entered in the Special Jurors' List.

After which the number of Special Jurors not to exceed two hundred.

XIV. All persons whose names are entered in the Special Jurors' List shall be exempted from serving on any other than Special Juries.

Special Jurors exempted from serving on Common Juries.

XV. The Clerk of the Crown, or such other Officer as the Chief Justice of the High Court shall direct, shall, before the First day of April in each year, and subject in all respects to such rules as the High Court shall from time to time prescribe, prepare a list of all persons qualified and liable to serve as Jurors: and shall, before the Fifteenth day of April which shall first occur after the reduction of the number of names in the Special Jurors' List as aforesaid, and before every subsequent Fifteenth day of April, but subject always to such rules as aforesaid, take from the general list of Jurors the names of such persons as he may think fit, regard being had to their property, character and education, and shall enter the same in the "Special Jurors' List."

Preparation of lists of Jurors and Special Jurors.

XVI. The Clerk of the Crown or other Officer appointed by the Chief Justice shall, subject to such rules as aforesaid, have full and entire discretion to prepare the said lists as shall seem to him to be proper, and there shall be no appeal from or review of his decision.

Officer preparing the lists to have full discretion: no appeal from his decision.

XVII. The list of persons qualified or liable to serve as Jurors, and the "Special Jurors' List," respectively, signed by the Officer by whom the same shall have been prepared, shall be published once in the Official Gazette, before the First day of May next after their preparation, and copies of the said lists shall be affixed to some conspicuous part of the Court House.

Lists of Jurors to be published in the Gazette.

XVIII. Out of the names contained in the lists aforesaid, there shall be summoned for each Sessions thirty-six of those who are qualified and

Jurors and Special Jurors to be summoned for each Sessions.

liable to serve on Special Juries, and seventy-two of those who are qualified and liable to serve on Common Juries.

Of Challenges of Jurors in the Presidency Towns.

Challenges.

XIX. A peremptory challenge to the number of twenty in Common Juries and ten in Special Juries, shall be allowed; but there shall be no challenge to the array, and, save as aforesaid, the following and no others shall be good causes of challenge, whether on behalf of the Crown or by the person charged:—

(1.) Some personal objection, such as alienage, infancy, old age, or deficiency in the qualification required by any law or rule having the force of law for the time being in force.

(2.) Some presumed or actual partiality in the Juror.

(3.) A previous conviction of the Juror under the Indian Penal Code, or the criminal law administered in the Supreme Courts of Judicature or the Courts of the East India Company previously to the enactment of such Code.

Judge to try challenge.

XX. The Judge before whom the person charged is about to be tried shall try any challenge, other than a peremptory challenge, and if he allow the challenge, the Juror shall be set aside.

High Court to retain its present jurisdiction as to Jurors in Presidency Towns except as altered by this Act.

XXI. Save as hereinbefore provided, the High Court shall retain all its present powers respecting the summoning, empannelling, qualification, challenging, and service of Jurors in the Presidency Towns; and shall have power to make such rules on these subjects (not inconsistent with the provisions of this Act) as shall seem to it to be proper. All rules relating thereto now in force in the High Court shall (so far as they are not inconsistent with this Act) remain in full force until repealed or altered by new rules made under this Section.

Of Sittings under a Commission.

Jurisdiction of Judge acting under Commission from Governor General of India in Council.

XXII. From and after the commencement of this Act, whenever it shall appear to the Governor General of India in Council convenient that the jurisdiction and power vested in the High Court at Fort William in Bengal

should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the said High Court, whether within or without the Bengal Division of the Presidency of Fort William, other than the usual place of sitting of such Court, or at several such places by way of circuit, and the Governor General of India in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court, to hold sittings in such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court of Judicature at Fort William in Bengal in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of such High Court, to the provisions contained in the Twenty-eighth and following Sections of this Act. [By Act XVI., 1866, such Commissions may be scaled.]

Jurisdiction of Judge acting under Commission of Governor in Council of Madras

XXIII. From and after the commencement of this Act whenever it shall appear to the Governor in Council of Madras convenient that the jurisdiction and power vested in the High Court of Judicature at Madras should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same High Court, whether within or without the Presidency of Madras, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission, in the place and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court at Madras in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the

ordinary place of sitting of the same Court, to the provisions contained in the Twenty-eighth and following Sections of this Act.

Jurisdiction of Judge acting under Commission of Governor in Council of Bombay.

XXIV. From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Bombay convenient that the jurisdiction and power vested in the High Court of Judicature at Bombay should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same Court, whether within or without the Presidency of Bombay, other than the usual place of sitting of such Court, or of several such places by way of circuit, and such Governor in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court at Bombay in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting at the same Court, to the provisions contained in the Twenty-eighth and following Sections of this Act. [By Act XVI., 1866, such Commissions may be sealed.]

High Court may allot jurisdiction to Judge acting under Commission.

XXV. The High Court may allot to a Judge or Judges acting under a Commission as aforesaid, such part of the extraordinary original Civil jurisdiction, and of the Civil and Criminal Appellate jurisdiction, and of the jurisdiction as a Court of revision or reference, which it is competent to exercise at its usual place of sitting, as the High Court may consider can be more conveniently exercised at any place or places mentioned in such Commission.

Commission to specify time and place during and in which it shall remain in force.

XXVI. Every Commission issued as aforesaid under any of the preceding Sections shall specify the time during which, and the Districts or places within which such Commission shall remain in force; and such time and the limits of such Districts or places shall be notified in the Official Gazette.

XXVII. The Governor General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, may, by such Commission as aforesaid, associate with such Judge of the High Court any Barrister-at-law of not less than five years' standing, or any Sessions Judge. The person so associated shall be called the Associate Judge, and, unless directed to try persons separately, as hereinafter provided, may sit with the Judge of the High Court during the trials of persons tried under such Commission. Whenever any Associate Judge sits with the Judge of the High Court, the latter shall preside, conduct the case, and pronounce judgment.

Power to appoint an Associate Judge.

XXVIII. Any Justice of the Peace or Magistrate without the local limits of the ordinary original Civil jurisdiction of the High Court, before whom any European British subject shall be brought for an offence committed without those limits, shall, immediately after the conclusion of the preliminary enquiry, and if he shall determine to commit or hold to bail such person for trial, give notice thereof to the High Court to which the commitment or bailment would ordinarily be made, and shall send to the Clerk of the Crown, together with the record of the preliminary enquiry, and translations into English of any writings not in that language, a written instrument of charge signed by him stating for what offence such person is committed or held to bail. On receipt of these documents, the Clerk of the Crown shall proceed as directed in the like case in the Fourth Section, and the person charged shall be entitled to copies in like manner as he would be entitled to copies under the Fifth Section of this Act. If a Commission under which the person charged might be tried shall have been issued, the High Court shall consider at what place the person charged can be most conveniently tried, and shall give directions accordingly: if no such Commission shall have been issued, the High Court shall obtain information from the Government as to whether such Commission is about to issue, and shall then give such directions as last aforesaid: provided always that, if the commitment or bailment have been made after the issue and during the running of a Commission under which the person charged might be tried, the notice by

Charge to be delivered with record of preliminary enquiry without the local limits of the ordinary original Civil jurisdiction.

this Section directed to be given to the Clerk of the Crown shall be given, and the documents directed to be sent to the Clerk of the Crown shall be sent, to the Clerk of the Crown with the Judge of the High Court acting under the Commission. Such Judge shall have all the powers given to the High Court by this and the next succeeding Section.

The charge shall be deemed a charge under the Criminal Procedure Code.

XXIX. The charge, whether it shall or shall not have been amended, altered, or added to under the last preceding Section, shall, if the person charged, be directed to be tried at a place other than the usual place of sitting of the Court, have the same effect as a charge under the Thirteenth Chapter of the Code of Criminal Procedure, and the person charged shall be tried thereon before a Judge of the High Court, whether sitting by himself or with an Associate Judge. But if, at any time before the High Court shall have directed where the trial of the person charged shall take place, the charge appear to the High Court to be clearly unsustainable, an entry to that effect may be made by the proper Officer of the Court at any time before the commencement of the trial. Such entry shall have the effect of staying proceedings on the charge, but shall not operate as an acquittal of the person charged, unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted. If the person charged be directed to be tried at the usual place of sitting of the Court, the charge, whether amended, altered, or added to as last aforesaid or not, shall have the same effect as, and be deemed to be, a charge under the Sixth, Seventh, and Eighth Sections of this Act.

If unsustainable, the proceedings may be stayed.

Procedure pending directions of High Court.

XXX. Pending the directions of the High Court as to the place of trial, every such British subject as is referred to in the Twenty-eighth Section of this Act shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal Gaol in which he can be most conveniently confined. If the trial shall be directed to take place in the usual place of sitting of the Court, the Justice of the Peace or

Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the gaol at such place. If the High Court shall direct that the person charged be tried elsewhere than in its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial in the place directed, or (as the case may be) shall, if necessary, cause him to be removed to the Criminal gaol of, or nearest to the place at which such person is directed to be tried; and the Officer in charge of such Criminal gaol shall keep such person in safe custody until discharged in due course of law.

High Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular gaol.

XXXI. It shall be lawful for the High Court to direct that all European British subjects committed or bailed for trial within certain specified Districts, or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named; and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular gaol, being one of the gaols appointed by the Government for the reception of such prisoners. In any such case the High Court may direct, further, that the notice required by the Twenty-eighth Section of this Act to be given, and the papers required by that Section to be sent, to the Clerk of the Crown, shall be given and sent to a particular Clerk of the Crown named by the High Court in that behalf. Every person bailed or committed to take his trial at any particular place in compliance with a general direction under the provisions of this Section, shall be dealt with in all respects as if he had been bailed or committed in compliance with a special direction under the Twenty-eight Section of this Act.

Jurisdiction over European British subjects tried under Commission.

XXXII. When the High Court shall have directed that any European British subject shall be tried at any place other than its usual place of sitting, the Judge of the High Court acting under such Commission as aforesaid in the place and manner therein mentioned, shall, whether sitting by himself or with the Associate Judge, have and exercise in respect of such European British subject the same jurisdiction, power, and authority which would be had and exercised by the High Court at its ordinary

place of sitting if the said European British subject had been committed or bailed to the said High Court at its ordinary place of sitting for the offence with which he is charged. But the trial of the said European British subject before such Judge of the High Court, acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall, subject to the exceptions hereinafter declared, be conducted in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials of persons committed or bailed for trial before the Court of Session for offences triable by such Court.

Code of Criminal Procedure to apply to the trial of such subjects except as hereinafter declared.

XXXIII. The Judge of the High Court acting under such Commission in the place and manner therein mentioned, and whether sitting by himself or with the Associate Judge, shall, if he shall think fit, have and exercise the same jurisdiction, power and authority in respect of any person committed or bailed for trial under the Code of Criminal Procedure before the Court of Session at the place and within the time in such Commission mentioned, as might be had and exercised by the Court of Session to which such person was committed or bailed. The trial of such person shall be conducted, subject to the exceptions hereinafter declared, in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials before a Court of Session of persons committed or bailed to such Court for offences triable by the same.

Jurisdiction over persons not European British subjects tried under Commission.

XXXIV. All trials before a Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall be by Jury.

Trials under Commission to be by jury.

XXXV. Whenever the Governor General of India in Council, or the Governor of Madras or of Bombay in Council, as the case may be, shall have signified to the High Court that it is intended to issue a Commission as aforesaid to any Judge or Judges of the High Court, authorizing and directing sittings of the said Judge or Judges in any place, the High Court shall give notice of such

Summoning of Jurors to serve on trials under Commission.

intention to the Court of Session at such place, and thereupon the said Court of Session shall take or cause to be taken the measures prescribed by Sections Three-hundred and thirty-six to Three-hundred and forty, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service, resident within ten miles of its place of sitting, as the Court shall consider to be necessary to make up the Juries required for the trial of persons charged with offences before the Judge of the High Court acting under Commission as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of persons triable by such Judge of the High Court acting under such Commission as aforesaid, shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Military men not exempt.

XXXVI. If the person charged shall be a European British subject and shall so require before the Jury shall be empannelled, the majority of the Jurors shall consist of Europeans or Americans. If such a Jury cannot be procured, the person so charged shall be sent for trial by the High Court in its usual place of sitting.

Jury for trial of European British subject.

XXXVII. On every trial mentioned in the Thirty-fourth Section of this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the

Number of Jury requisite to verdict of guilty.

concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

Acts not of a judicial nature may be done by Clerk of the Crown.

XXXVIII. During the trial of any person before a Judge of the High Court acting under Commission as aforesaid, or before a Judge of the High Court and an Associate Judge sitting together, any act, not of a judicial nature, which the Code of Criminal Procedure requires to be done by the Court of Session, may be done by the Clerk of the Crown or by any Officer of the Court directed by such Judge to perform such act.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by High Court Judge

XXXIX. So much of the Three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by a Judge of the High Court acting under Commission as aforesaid.

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of High Court Judge

XL. So much of the Twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form, shall not apply to judgments, sentences, or findings in trials before a Judge of the High Court acting under such commission as aforesaid, whether sitting by himself or with an Associate Judge; but the Judge shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as he shall think proper.

Power to reserve for High Court any question of law or evidence

XLI. When any person has been convicted of an offence before a Judge of the High Court acting under Commission as aforesaid, the Judge, if he think proper, may reserve for the decision of the High Court any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he

shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the gaol of the District at which the trial was held, and such Magistrate or other Officer shall proceed thereupon in like manner as he is directed by the Code of Criminal Procedure to proceed in respect of sentences by a Court of Session not requiring confirmation. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision of the High Court thereon, be dealt with in like manner as persons sentenced by a Court of Session in cases where the sentence requires the confirmation of the Sudder Court under the Code of Criminal Procedure. If the decision of the High Court be adverse to the person convicted, such decision shall be forwarded to the Court of Session of the District in which the trial took place, in like manner as is directed by the Three hundred and eighty-third Section of the said Code with reference to orders of confirmation of sentences, and thereupon the said Court of Session and all other persons shall proceed as if the person convicted had been sentenced by such Court of Session and as if such sentence had been confirmed by the Sudder Court under the Code of Criminal Procedure.

Procedure where no such question reserved.

XLII. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before a Judge of the High Court acting under Commission as aforesaid, or before such Judge and an Associate Judge, and to trials before such Judge of the High Court or before such Judge and an Associate Judge, and to sentences by such Judge of the High Court and to the carrying into execution of such sentences.

Save as aforesaid, Criminal Procedure Code to apply to Juries under Commission.

XLIII. If the Judge of the High Court think fit, he may direct the Associate Judge to try any person, other than a European British subject, who under this Act is triable by such Judge of the High Court. The trial of such person shall be regulated without exception by the rules of the Code of Criminal Procedure applicable to trials of persons committed or bailed for trial before a Court of Session, and such person, if

High Court Judge may direct Associate Judge to try any one triable under Commission not a European British subject.

convicted, shall be dealt with as if he had been convicted before the Court of Session of the District in which the trial was held. Any person other than a European British subject, who has been committed or bailed for trial before the Court of Session of any place mentioned in such Commission as aforesaid, but who has not been tried under this Act during the time for which the Commission remains in force, shall be tried by the Court of Session to which he was committed or bailed as if this Act had not passed.

Power of Governor General of India in Council to appoint a Barrister to hold sittings under Commission at places not hereinbefore referred to.

LXIV. From and after the commencement of this Act, it shall be lawful for the Governor General of India in Council by his Commission to authorize and direct any Barrister-at-law of not less than five years' standing, although not a Judge of any High Court, to hold sittings at any place in British India, other than the usual place of sitting of such Court, and other than any place referred to in the Twenty-second, Twenty-third, and Twenty-fourth Sections of this Act, or at several such places by way of circuit. The Barrister acting under such Commission in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as (subject to the provisions hereinbefore contained) would be had and exercised by a Judge of the High Court acting under any such Commission as aforesaid.

Commencement of Act.

XLV. This Act shall commence and come into operation on such date as the Governor General of India in Council shall appoint by notification in the Gazette of India.

Act not to extend to Straits' Settlement.

XLVI. This Act shall not extend to the Settlement of Prince of Wales' Island, Singapore, and Malacca.

CENTRAL PROVINCES COURTS' ACT, 1865.

ACT NO. XIV. OF 1865.

[*Received the assent of the G. G. on the 7th April*, 1865.

1. Names the Act "The Central Provinces Courts' Act, 1865."

2. The term Assistant Commissioners to include Extra Assistant Commissioners.

3. Defines what shall be a District and what a Division.

4, 5. Directs the appointment of eight grades of Courts and names them; and (5) authorizes the Chief Commissioner to assign to what grade any Tahsildar shall belong.

6—14. Empowers the Chief Commissioner to invest the Naib Tahsildar with defined Civil Jurisdiction; and (7) defines the jurisdiction of the second class Tahsildar; and (8) of the first class Tahsildar; and (9) of the third class Assistant Commissioner; and (10) of the second class Assistant Commissioner; and (11) of the first class Assistant Commissioner; and (12) of the Deputy Commissioner; and (13) of the Commissioner; and (14) of the Judicial Commissioner.

15. Gives thirty days for appeal if to Deputy Commissioner; six weeks if to Commissioner of Division; and ninety days if to Judicial Commissioner; days in such case to be reckoned how. And same time given for applications for Special Appeal.

16. Empowers Government to invest temporarily any person with powers of Commissioner or Deputy Commissioner.

17. Directs that every suit be instituted in Court of lowest grade competent, but saves exclusive jurisdiction of Small Cause Court.

18. Gives an appeal from all decisions of all the Courts.

19. Empowers Deputy Commissioner to distribute the business of Courts subordinate to him sitting at same place.

20, 21. Empowers Commissioner of Division, and Deputy Commissioner, to withdraw suits from Subordinate Courts and to try them himself; and (21) gives Judicial Commissioner power to transfer suit or appeal from one Court to another.

22, 23. Regulates the jurisdiction as respects suits for immoveable property situate in different Districts; and (23) makes same provision where such property is situate in several Districts under different Commissioners.

24, 25. Act to commence on 1st May, 1865; and (25) may be extended by Governor General in Council, by proclamation, to Oudh; and after extension Civil Judge of Lucknow to be deemed Deputy Commissioner and Assistant Judge of Lucknow a third class Assistant. Appeals to lie to Judicial Commissioner.

Preamble. Whereas it is expedient to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces, it is enacted as follows:

Short title. I. This Act shall be called "The Central Provinces Courts' Act, 1865."

Interpretation clause. II. In this Act—

"Assistant Commissioner." "Assistant Commissioner" includes Extra Assistant Commissioner.

"District."
"District Court."
"Division."
"Divisional Court."

III. For the purposes of this Act, the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court. The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

Grades of Courts in the Central Provinces.

IV. There shall be eight grades of Courts in the Central Provinces, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, namely:—

(1.) The Court of the Tahsildar of the second class.

(2.) The Court of the Tahsildar of the first class.

(3.) The Court of the Assistant Commissioner of the third class.

(4.) The Court of the Assistant Commissioner of the second class.

(5.) The Court of the Assistant Commissioner of the first class.

(6.) The Court of the Deputy Commissioner.

(7.) The Court of the Commissioner.

(8.) The Court of the Judicial Commissioner.

Chief Commissioner may declare grade to which a Tahsildar or Assistant Commissioner belongs.

V. Subject to any orders that may from time to time be issued by the Local Government, the Chief Commissioner shall have power to declare to which of the said grades any Tahsildar and any Assistant Commissioner shall belong.

Chief Commissioner may give Naib Tahsildars jurisdiction up to fifty Rupees.

VI. The Chief Commissioner may, with the sanction of the Local Government, invest any Naib Tahsildar with power to try and determine suits, for money due, whether on bond or other contract, or for rent or for personal property, or for the value of such property, or for damages, when the debt, damage, or demand, does not exceed in amount or value the sum of fifty Rupees, and to prescribe the local limits within which the Naib Tahsildar so invested shall exercise such power.

VII. The Court of the Tahsildar of the second class shall have power to try and determine suits of every description not exceeding one hundred Rupees in value or amount.

Jurisdiction of Court of Tahsildar of the second class.

VIII. The Court of the Tahsildar of the first class shall have power to try and determine suits of every description not exceeding three hundred Rupees in value or amount.

Jurisdiction of Court of Tahsildar of the first class.

IX. The Court of the Assistant Commissioner of the third class shall have power to try and determine suits of every description not exceeding five hundred Rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the third class.

X. The Court of the Assistant Commissioner of the second class shall have power to try and determine suits of every description not exceeding one thousand Rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the second class.

XI. The Court of the Assistant Commissioner of the first class shall have power to try and determine suits of every description not exceeding five thousand Rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the first class.

XII. The Court of the Deputy Commissioner shall have power to try and determine suits of every description and of any amount, and to hear appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the first, second, third, and fourth grades, and of Naib Tahsildars invested as aforesaid. [See Act XXVII., 1867, as to powers of Deputy Commissioners.]

Jurisdiction of Court of Deputy Commissioner.

XIII. The Court of the Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the fifth and sixth grades.

Jurisdiction of Court of Commissioner.

XIV. The Court of the Judicial Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Commissioners, and also applications for a special

Jurisdiction of Court of Judicial Commissioner.

appeal as provided in the said Code, from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

Time for presenting appeals.

XV. The memorandum of appeal prepared in the form, and containing the particulars, mentioned in the Code of Civil Procedure, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the memorandum of appeal within the said period, that is to say, thirty days if the appeal lie to the Deputy Commissioner; six weeks if the appeal lie to the Commissioner of a Division; and ninety days if the appeal lie to the Judicial Commissioner. The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made. Application for special appeal shall be presented in the Court of the Judicial Commissioner within the period hereinbefore fixed for appeals.

Local Government may invest any one with powers of Commissioner, or of Deputy Commissioner.

XVI. Whenever the state of the public business requires it, the Local Government shall have power to invest any person with the powers of a Commissioner or of a Deputy Commissioner in any part of the Central Provinces.

Court in which suit shall be instituted.

XVII. Every suit shall be instituted in the Court of the lowest grade competent to try it, provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Appeal to lie from all decisions except when expressly prohibited.

XVIII. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

Deputy Commissioner may distribute business among subordinate Courts.

XIX. The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall

think fit. Provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

Transfer of suits from subordinate Court to Commissioner's or Deputy Commissioner's Court.

XX. The Commissioner of the Division or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself or refer it for trial to any other such subordinate Court and competent in respect of the value or amount of the suit to try the same. The Commissioner of the Division may also withdraw any appeal instituted in the Court of any Deputy Commissioner subordinate to him and try the appeal himself or refer it for trial to the Court of any other Deputy Commissioner in his Division.

Judicial Commissioner may transfer suits from one subordinate Court to another.

XXI. The Judicial Commissioner may order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to him, not being a Court of Small Causes, shall be transferred to any other such subordinate Court, competent in respect of the value of the subject-matter of the suit or appeal to try the same.

Suits for immoveable property situate in different Districts.

XXII. If the suit be for any immoveable property situate within the limits of different District Courts within the same Division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of such property is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the suit; and the Commissioner, after hearing the objections, if any, of the defendant, may give such authority. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situate in Districts subject to different Commissioners.

XXIII. If the District Courts within the limits of whose jurisdiction the immoveable property is situate, are subordinate to different Commissioners, the application shall be submitted to the Commissioner of the Division to whom the District Court in

which the suit is brought is subordinate, and the Commissioner to whom such application is made may, after hearing the objections, if any, of the defendant, give authority to proceed with the suit.

XXIV. This Act shall commence and come into operation on the First day of May, 1865.

Commencement of Act.

XXV. The Governor General of India in Council may, by an order to be published in the Official Gazette, extend the provisions of this Act to the Province of Oude, but not so as in any way to affect the provisions of Act XVI. of 1865 (*to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oudh in suits relating to land, and to enlarge the period of limitation in such suits*). On and after such extension, the Civil Judge of Lucknow shall be considered a Deputy Commissioner, and the Assistant Judge of Lucknow an Assistant of the third class, within the meaning of this Act. Appeals from the decisions and orders of the Civil Judge of Lucknow, when allowed by the Code of Civil Procedure or any other law, shall lie as at present to the Court of the Judicial Commissioner.

Act may be extended to Oudh.

By Act XXVII., 1867, that Act is to be read and taken as part of this Act.

PARSEE MARRIAGE AND DIVORCE ACT, 1865.

ACT No. XV. OF 1865.

—[*Received the assent of the G. G. on the 7th April*, 1865.

Recites expediency of amending the Law relating to Marriage and Divorce of Parsees.

I.—*Preliminary.*

1. Names Act, "The Parsee Marriage and Divorce Act, 1865."

2. Interprets words of number and grades and the words Priest, Marriage, Husband and Wife, Section, Chief Justice, Court, British India, Local Government, and High Court.

II.—*Of Marriages between Parsees.*

3. Declares invalid all Marriages contracted after commencement of this Act, if contracting parties are related within specified degrees of consanguinity or affinity, and in the case of Parsees under age of 21 if consent of father or guardian be not given.

4, 5. Prohibits second marriage in life time of husband or wife, except after lawful divorce according to Act; and (5) subjects such second marriage to punishment of Bigamy under Penal Code.

6—14. Requires the Marrying Priest to certify the marriage in prescribed form; (7) to the Registrar to be appointed under this Act, for fee prescribed; the register (8) to be open at all times to inspection and extracts of it to be given; and (9, 10) prescribes penalty on Priest for violation of Sections 4 and 6; and (11) on other persons than Priests under Section 6; and (12) extends Section 466 of Indian Penal Code to making, signing, or attesting Certificate with false statement, &c.; and (13) enacts simple imprisonment for Registrar failing to enter Certificate, &c.; and (14) imprisonment of either kind for persons secreting, destroying, or fraudulently altering the Register.

III.—*Of Parsee Matrimonial Courts.*

15—20. Directs the establishment of Special Courts in the Presidency Towns; (16) to be entitled Parsee Chief Matrimonial Court, local limits of which to be same as of High Court, Chief Justice of which is to be Judge of such Court, to be aided by 11 Delegates; and (17) provides for Parsee District Matrimonial Courts, with what limits; and (18) empowers Local Government to alter the limits of such District Courts; and (19) Districts with too few Parsees for District Court may be included in jurisdiction of Chief Matrimonial Court; and (20) every such Court shall have a seal, to be kept where.

21—24. Directs Local Governments to appoint the Delegates, whose names shall be gazetted, and not to exceed 30 in Presidency Town, nor 20 in District; such Delegates (22) to be appointed for life, and number to be kept up by new appointment on vacancy occurring by death, &c.; and (23) to be deemed Public servant, within the meaning of Indian Penal Code; and (24) to be appointed for duty by rotation.

25. Entitles Advocates, Vakeels, and Attornies of High Court and Local Courts to practise in these Matrimonial Courts.

26. Directs that suits be brought in Court within whose jurisdiction the defendant is residing, or, if he has left India, in place in which defendant and plaintiff last resided together.

IV.—*Of Matrimonial Courts.*

(*a*) *For a Decree of Nullity.*

27—28. Marriage may, at instance of either party, be declared null and void for lunacy, become habitual, and continuing from time of marriage, unless known at time of marriage; and (28) for non-consummation from natural causes making consummation impossible.

(*b*) *For a Decree of Dissolution in case of Absence.*

29. And marriage may be dissolved at instance of either party for continual absence of the other for seven years if not heard of as being alive by persons naturally likely to have heard.

(c) *For Divorce or Judicial Separation.*

30. Entitles the husband to sue for a divorce and dissolution of marriage on ground of adultery; and wife to sue the husband on ground of adultery and fornication under specified circumstances; the third offending party to be co-defendant, &c.

31. Entitles the wife to judicial separation for cruelty, &c.

32. Sets forth the facts to be negatived in suit for divorce or separation to entitle plaintiff to a decree.

33—35. Entitles the wife to apply to the Court for costs of suit and maintenance pending the suit; and (34) on decree for divorce of separation, Court may order an allowance to the wife as alimony; and (35) to be paid either to the wife or trustees for her.

(d) *For Restitution of Conjugal Rights.*

36, 37. Entitles husband and wife to sue for the restitution of conjugal rights, if either have deserted the other without lawful cause, &c.; (37) unless party suing, if the husband be under 16, or the wife under 14 years of age.

38—42. Directs that all suits under this Act shall be tried with closed doors, if either party so wish; and (39) imposes stamp on the proceedings; and (40) applies the Civil Code Procedure to proceedings under this Act; and (41) directs that questions of law and precedent shall be decided by the Judge, and of facts by a majority of the Delegates; and (42) gives an appeal to the High Court on specified grounds.

43. Authorizes marrying again after decree for dissolution and time for appealing is expired.

V.—*Of the Children of the Parties.*

44, 45. Empowers the Court pending suit between parents, and in decree, to make all just orders for the custody, maintenance, and education of the children, &c.; and (45) in decree for divorce, &c., for adultery of the wife to make a settlement out of Wife's property, if any, for benefit of the children.

VI.—*Of the Mode of enforcing Penalties under this Act.*

46—50. Gives Magistrates and Sessions Judges jurisdiction over offences under this Act according to the general limits of their jurisdiction in regard to punishments; and (47) establishes summary conviction before Magistrates of Police within Presidency Towns for offences punishable with fine, or fine and not more than six months' imprisonment; and (48) gives remedy by distress warrant for fines; and (49) authorizes arrest of offender till return of distress warrant unless security is given; and (50) authorizes arrest and imprisonment, &c., for fine if it cannot be levied.

VII.—*Miscellaneous.*

51, 52. Empowers High Court to make Rules of Procedure for Matrimonial Court; and (52) empowers Governor General in Council to invest Executive Officers, &c., with powers of Local Government; (53) Act to come into operation on 1st September, 1865.

Schedule of Forms.

Preamble.

Whereas the Parsee community has represented the necessity of defining and amending the law relating to Marriage and Divorce among Parsees; and whereas it is expedient that such law should be made conformable to the customs of the said community, it is enacted as follows:

I.—*Preliminary.*

Short title.

I. This Act may be cited as "The Parsee Marriage and Divorce Act, 1865."

Interpretation clause.

II. In this Act unless there be something repugnant in the subject or context—

Number.

Words in the singular number include the plural, and words in the plural number include the singular.

"Priest."

"Priest" means a Parsee Priest and includes Dastúr and Mobed.

"Marriage."

"Marriage" means a marriage between Parsees whether contracted before or after the commencement of this Act; and "Husband" and "Wife" respectively mean a Parsee husband and a Parsee wife.

"Husband" and "Wife."

"Section."

"Section" means a Section of this Act.

"Chief Justice."

"Chief Justice" includes Senior Judge.

"Court."

"Court" means a Court constituted under this Act.

"British India."

"British India" means the Territories which are or shall be vested in Her Majesty or her successors by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India."

"Local Government."

And, in any part of British India in which this Act operates, "Local Government" means the person authorized to administer Executive Government in such part of India, or the Chief Executive Officer of such part when it is under the immediate administration of the Governor General of India in Council, and when such Officer shall be authorized to exercise the powers vested by this Act in a Local Government; and

"High Court."

"High Court" means the highest Civil Court of appeal in such part.

II.—*Of Marriages between Parsees.*

III. No marriage contracted after the commencement of this act shall be valid, if the contracting parties are related to each other in any of the degrees of consanguinity or affinity prohibited among Parsees and set forth in a Table which the Governor General of India in Council shall, after due enquiry, publish in the Gazette of India, and unless such marriage shall be solemnized according to the Parsee form or ceremony called "Áśírvád" by a Parsee Priest in the presence of two Parsee witnesses independently of such officiating Priest; and unless, in the case of any Parsee who shall not have completed the age of twenty-one years, the consent of his or her father or guardian shall have been previously given to such marriage.

Requisites to validity of Parsee marriages.

IV. No Parsee shall, after the commencement of this Act, contract any marriage in the lifetime of his or her wife or husband, except after his or her lawful divorce from such wife or husband, by sentence of a Court as hereinafter provided; and every marriage contracted contrary to the provisions of this Section shall be void.

Re-marriage save after divorce unlawful during lifetime of first wife or husband

V. Every Parsee who shall, after the commencement of this Act and during the lifetime of his or her wife or husband, contract any marriage without having been lawfully divorced from such wife or husband, shall be subject to the penalties provided in Sections Four hundred and ninety-four and Four hundred and ninety-five of the Indian Penal Code for the offences of marrying again during the lifetime of a husband or wife.

Punishment of bigamy.

VI. Every marriage contracted after the commencement of this Act shall, immediately on the solemnization thereof, be certified by the officiating Priest in the form contained in the Schedule to this Act. The certificate shall be signed by the said Priest, the contracting parties, or their fathers or guardians when they shall not have completed the age of twenty-one years, and two witnesses present at the marriage; and the said Priest shall thereupon send such certificate, together with a fee of two Rupees to be paid by the husband, to the Registrar of the place at which

Certificate and Registry of marriages

such marriage is solemnized. The Registrar on receipt of the certificate and fee shall enter the certificate in a register to be kept by him for that purpose, and shall be entitled to retain the fee.

Appointment of Registrar.

VII. For the purposes of this Act a Registrar shall be appointed who may be the Registrar appointed under Act XVI. of 1864 (*to provide for the Registration of Assurances*). Within the local limits of the ordinary original Civil jurisdiction of a High Court, the Registrar shall be appointed by the Chief Justice of such Court, and without such limits, by the Local Government. Every Registrar so appointed may be removed by the Chief Justice or Local Government appointing him.

Marriage register to be open for public inspection.

VIII. The register of marriages mentioned in the Sixth Section shall, at all reasonable times, be open for inspection; and certified extracts therefrom shall, on application, be given by the Registrar on payment to him by the applicant of two Rupees for each such extract. Every such register shall be evidence of the truth of the statements therein contained.

Penalty for solemnizing marriage contrary to Section 4.

IX. Any Priest knowingly and wilfully solemnizing any marriage contrary to and in violation of the Fourth Section, shall, on conviction thereof, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two hundred Rupees, or with both.

Penalty for Priest's neglect of requirements of Section 6.

X. Any Priest neglecting to comply with any of the requisitions affecting him contained in the Sixth Section shall, on conviction thereof, be punished for every such offence with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred Rupees, or with both.

Penalty for omitting to subscribe and attest the certificate.

XI. Every other person required by the Sixth Section to subscribe or attest the said certificate who shall wilfully omit or neglect so to do, shall, on conviction thereof, be punished for every such offence with a fine not exceeding one hundred Rupees.

Penalty for making, &c., false certificate.

XII. Every person making or signing or attesting any such certificate containing a statement which is false, and which he either knows or believes

to be false, or does not know to be true, shall be deemed to be guilty of the offence of forgery as defined in the Indian Penal Code, and shall be liable, on conviction thereof, to the penalties provided in Section Four hundred and sixty-six of the said Code.

Penalty for failing to register certificate

XIII. Any Registrar failing to enter the said certificate pursuant to the Sixth Section shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to one thousand Rupees, or with both.

Penalty for secreting, destroying, or altering the register

XIV. Any person secreting, destroying, or dishonestly or fraudulently altering the said register in any part thereof, shall be punished with imprisonment of either description as defined in the Indian Penal Code for a term which may extend to two years, or, if he be a Registrar, for a term which may extend to five years, and shall also be liable to fine which may extend to five hundred Rupees.

III.—*Of Parsee Matrimonial Courts.*

Constitution of special Courts under this Act

XV. For the purposes of hearing suits under this Act, a Special Court shall be constituted in each of the Presidency Towns of Calcutta, Madras and Bombay, and in such other places in the Territories of the several Local Governments as such Governments respectively shall think fit.

Parsee Chief Matrimonial Courts

XVI. The Court so constituted in each of the Presidency Towns shall be entitled the Parsee Chief Matrimonial Court of Calcutta, Madras, or Bombay, as the case may be. The local limits of the jurisdiction of a Parsee Chief Matrimonial Court shall be conterminous with the local limits of the ordinary original Civil jurisdiction of the High Court. The Chief Justice of the High Court, or such other Judge of the same Court as the Chief Justice shall from time to time appoint, shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by eleven Delegates.

Parsee District Matrimonial Courts

XVII. Every Court so constituted at a place other than a Presidency Town shall be entitled the Parsee District Matrimonial Court of such place.

Subject to the provisions contained in the next following Section, the local limits of the jurisdiction of such Court shall be conterminous with the limits of the District in which it is held. The Judge of the Principal Court of Original Civil Jurisdiction at such place shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by seven Delegates.

Power to alter Territorial jurisdiction of District Courts.

XVIII. The Local Government may from time to time alter the local limits of the jurisdiction of any Parsee District Matrimonial Court, and may include within such limits any number of Districts under its Government.

Certain Districts to be within the jurisdiction of the Chief Matrimonial Court.

XIX. Any District which the Local Government, on account of the fewness of the Parsee inhabitants, shall deem it inexpedient to include within the jurisdiction of any District Matrimonial Court, shall be included within the jurisdiction of the Parsee Chief Matrimonial Court for the Territories under such Local Government where there is such Court.

Court Seal.

XX. A seal shall be made for every Court constituted under this Act, and all decrees and orders and copies of decrees and orders of such Court, shall be sealed with such seal, which shall be kept in the custody of the presiding Judge.

Appointment of Delegates.

XXI. The Local Governments shall, in the Presidency Towns and Districts subject to their respective Governments respectively, appoint persons to be Delegates to aid in the adjudication of cases arising under this Act. The persons so appointed shall be Parsees: their names shall be published in the Official Gazette; and their number shall, within the local limits of the ordinary original Civil jurisdiction of a High Court, be not more than thirty, and in Districts beyond such limits not more than twenty.

Power to appoint new Delegates.

XXII. The appointment of a Delegate shall be for life. But whenever a Delegate shall die, or be desirous of relinquishing his office, or refuse or become incapable or unfit to act, or be convicted of an offence under the Indian Penal Code or other law for the time being in force, then and so often the Local Government may appoint any

other person being a Parsee to be a Delegate in his stead; and the name of the person so appointed shall be published in the Official Gazette.

Delegates to be deemed public servants.

XXIII. All Delegates appointed under this Act shall be considered to be public servants within the meaning of the Indian Penal Code.

Selection of Delegates under Sections 16 and 17 to be from those appointed under Section 21.

XXIV. The Delegates selected under the Sixteenth and Seventeenth Sections to aid in the adjudication of suits under this Act, shall be taken under the orders of the presiding Judge of the Court in due rotation from the Delegates appointed by the Local Government under the Twenty-first Section.

Practitioners in Matrimonial Courts

XXV. All Advocates, Vakeels, and Attorneys-at-law entitled to practise in a High Court shall be entitled to practise in any of the Courts constituted under this Act; and all Vakeels entitled to practise in a District Court shall be entitled to practise in any District Matrimonial Court constituted under this Act.

Court in which suits to be brought.

XXVI. All suits instituted under this Act shall be brought in the Court within the limits of whose jurisdiction the defendant resides at the time of the institution of the suit. When the defendant shall at such time have left British India, such suit shall be brought in the Court at the place where the plaintiff and defendant last resided together.

When defendant has left British India.

IV.—*Of Matrimonial Suits.*

(*a*) *For a Decree of Nullity.*

In case of lunacy or mental unsoundness.

XXVII. If a Parsee at the time of his or her marriage was a lunatic or of habitually unsound mind, such marriage may at the instance of his or her wife or husband be declared null and void upon proof that the lunacy or habitual unsoundness of mind existed at the time of the marriage and still continues. Provided that no suit shall be brought under this Section if the plaintiff shall at the time of the marriage have known that the respondent was a lunatic or of habitually unsound mind.

In case of non-consummation owing to physical causes.

XXVIII. In any case in which consummation of the marriage is from natural causes impossible, such marriage may, at the instance of either party thereto, be declared to be null and void.

(*b*) *For a Decree of Dissolution in case of Absence.*

In case of absence for seven years.

XXIX. If a husband or wife shall have been continually absent from his or her wife or husband for the space of seven years, and shall not have been heard of as being alive within that time by those persons who would naturally have heard of him or her had he or she been alive, the marriage of such husband or wife may, at the instance of either party thereto, be dissolved.

(*c*) *For Divorce or Judicial Separation.*

On the ground of the wife's adultery.

XXX. Any husband may sue that his marriage may be dissolved and a divorce granted, on the ground that his wife has, since the celebration thereof, been guilty of adultery; and any wife may sue that her marriage may be dissolved and a divorce granted, on the ground that, since the celebration thereof, her husband has been guilty of adultery with a married, or fornication with an unmarried woman not being a prostitute, or of bigamy coupled with adultery, or of adultery coupled with cruelty, or of adultery coupled with wilful desertion for two years or upwards, or of rape, or of an unnatural offence. In every such suit for divorce on the ground of adultery the plaintiff shall, unless the Court shall otherwise order, make the person with whom the adultery is alleged to have been committed a co-defendant, and in any such suit by the husband the Court may order the adulterer to pay the whole or any part of the costs of the proceedings.

On the ground of the husband's adultery, &c.

Grounds of judicial separation.

XXXI. If a husband treat his wife with such cruelty or personal violence as to render it in the judgment of the Court improper to compel her to live with him, or if his conduct afford her reasonable grounds for apprehending danger to life or serious personal injury, or if a prostitute be openly brought into or allowed to remain in the place of abode of a wife by her own husband, she shall be entitled to demand a judicial separation.

Suits for divorce or judicial separation.

XXXII. In a suit for divorce or judicial separation under this Act, if the Court be satisfied of the truth of the allegations contained in the plaint, and that the offence therein set forth has not been condoned, and that the husband and wife are not colluding together, and that the plaintiff has not connived at or been accessory to the said offence, and that there has been no unnecessary or improper delay in instituting the suit, and that there is no other legal ground why relief should not be granted, then and in such case, but not otherwise, the Court shall decree a divorce or judicial separation accordingly.

Alimony *pendente lite.*

XXXIII. In any suit under this Act for divorce or judicial separation, if the wife shall not have an independent income sufficient for her support and the necessary expenses of the suit, the Court, on the application of the wife, may order the husband to pay her monthly or weekly during the suit such sum, not exceeding one-fifth of the husband's net income, as the Court, considering the circumstances of the parties, shall think reasonable.

Permanent alimony.

XXXIV. The Court may, if it shall think fit, on any decree for divorce or judicial separation, order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum, or such monthly or periodical payments of money for a term not exceeding her life, as, having regard to her own property (if any), her husband's ability and the conduct of the parties, shall be deemed just, and for that purpose may require a proper instrument to be executed by all necessary parties and suspend the pronouncing of its decree until such instrument shall have been duly executed. In case any such order shall not be obeyed by her husband, he shall be liable to damages at her suit, and further to be sued by any person supplying her with necessaries, during the time of such disobedience, for the price or value of such necessaries.

Payment of alimony to wife or to her trustee.

XXXV. In all cases in which the Court shall make any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court may seem

expedient, and may from time to time appoint a new trustee, if for any reason it shall appear to the Court expedient so to do.

(*d*) *For Restitution of Conjugal Rights.*

XXXVI. Where a husband shall have deserted or without lawful cause ceased to cohabit with his wife, or where a wife shall have deserted or without lawful cause ceased to cohabit with her husband, the party so deserted or with whom cohabitation shall have so ceased, may sue for the restitution of his or her conjugal rights, and the Court, if satisfied of the truth of the allegations contained in the plaint and that there is no just ground why relief should not be granted, may proceed to decree such restitution of conjugal rights accordingly. If such decree shall not be obeyed by the party against whom it is passed, he or she shall be liable to be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred Rupees, or with both.

Suit for restitution of conjugal rights.

XXXVII. Notwithstanding anything hereinbefore contained, no suit shall be brought in any Court to enforce any marriage between Parsees or any contract connected with or arising out of any such marriage, if, at the date of the institution of the suit, the husband shall not have completed the age of sixteen years, or the wife shall not have completed the age of fourteen years.

No suit to be brought to enforce marriage or contract arising out of marriage when husband under 16 years or wife under 14 years.

XXXVIII. In every suit preferred under this Act, the case shall be tried with closed doors should such be the wish of either of the parties.

Suits may be heard with closed doors.

XXXIX. Every plaint and petition of appeal preferred under this Act shall bear a stamp of thirty-two Rupees, and all other instruments and writings of the kind specified as requiring a stamp in Schedule B to Act No. X. of 1862 (*to consolidate and amend the law relating to Stamp Duties*), and exhibited in a suit under this Act shall be stamped in accordance with the provisions of the said Act No. X. of 1862.

Stamps on plaints and petitions.

XL. The provisions of the Code of Civil Procedure shall, so far as the same may be applicable, apply to suits instituted under this Act.

Provisions of Civil Procedure Code to apply in suits under this Act.

XLI. In suits under this Act all questions of law and procedure shall be determined by the presiding Judge; but the decision on the facts shall be the decision of the majority of the Delegates before whom the case is tried.

Determination of questions of law and procedure, and of fact.

XLII. An appeal shall lie to the High Court from the decision of any Court established under this Act, whether a Chief Matrimonial Court or a District Matrimonial Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground. Provided that such appeal be instituted within three calendar months after the decision appealed from shall have been pronounced.

Appeal to High Court.

XLIII. When the time hereby limited for appealing against any decree dissolving a marriage shall have expired and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when in the result of any appeal any marriage shall be declared to be dissolved, but not sooner, it shall be lawful for the respective parties thereto to marry again, as if the prior marriage had been dissolved by death.

Liberty to parties to marry again.

V.—*Of the Children of the Parties.*

XLIV. In any suit under this Act for obtaining a judicial separation or a decree of nullity of marriage, or for dissolving a marriage, the Court may from time to time pass such interim orders, and make such provision in the final decree as it may deem just and proper with respect to the custody, maintenance, and education of the children under the age of sixteen years, the marriage of whose parents is the subject of such suit, and may, after the final decree, upon application by petition for this purpose, make from time to time all such orders and provisions with respect to the custody, maintenance, and education of such children as might have been made by such final decree, or by interim orders in case the suit for obtaining such decree were still pending.

Custody of children *pendente lite.*

Orders as to custody of children after final decree.

Settlement of wife's property for benefit of children.

XLV. In any case in which the Court shall pronounce a decree of divorce or judicial separation for adultery of the wife, if it shall be made to appear to the Court that the wife is entitled to any property, either in possession or reversion, the Court may order such settlement as it shall think reasonable to be made of such property or any part thereof, for the benefit of the children of the marriage or any of them.

VI.—*Of the Mode of enforcing Penalties under this Act.*

Cognizance of offences under this Act.

XLVI. All offences under this Act may be tried by any Officer exercising the powers of a Magistrate, unless the period of imprisonment to which the offender is liable shall exceed that which such Officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Officer, the offender shall be committed for trial before the Court of Session.

Punishment of offences under this Act, committed within local limits of High Court.

XLVII. If any offence which by this Act is declared to be punishable with fine, or with fine and imprisonment not exceeding six months, shall be committed by any person within the local limits of the ordinary original Civil jurisdiction of the High Court, such offence shall be punishable upon summary conviction by any Magistrate of Police of the place at which such Court is held.

Levy of fines by distress.

XLVIII. All fines imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the offender's moveable property by warrant under the hand of the Officer imposing the fine.

Procedure until return is made to distress warrant.

XLIX. In case any such fine shall not be forthwith paid, such Officer may order the offender to be arrested and kept in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment if no sufficient distress.

L. If upon the return of the warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient moveable property whereupon such fine could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender to prison, for any term not exceeding two calendar months when the amount of fine shall not exceed Fifty Rupees, and for any term not exceeding Four calendar months when the amount shall not exceed One hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount of fine.

VII.—*Miscellaneous.*

Rules of procedure of Parsee Matrimonial Courts to be made by the High Court.

LI. Subject to the provisions contained or referred to in this Act, the High Court shall make such rules and regulations concerning the practice and procedure of the Parsee Chief and District Matrimonial Courts in the Presidency or Government in which such High Court shall be established, as it may from time to time consider expedient, and shall have full power from time to time to revoke or alter the same. All such rules, revocations and alterations shall be published in the Official Gazette.

Power to invest Chief Executive Officer with Powers of Local Government.

LII. The Governor General of India in Council may invest the Chief Executive Officer of any part of British India under the immediate administration of the Government of India with the powers vested by this Act in a Local Government.

Commencement and extent of Act.

LIII. This Act shall commence and take effect on the First day of September, 1865, and shall extend to the whole of British India.

SCHEDULE (*See Section 6*).

Date and Place of Marriage.	Names of the Husband and Wife.	Condition at the time of Marriage.	Rank or Profession.	Age.	Residence.	Names of the Father or Guardians.	Rank or Profession.	Signature of the Officiating Priest.	Signature of the Witnesses.	Signature of Father or Guardian when Husband or Wife is an Infant.

OUDH.—REVENUE COURTS.

ACT No. XVI. OF 1865.

[*Received the assent of the G. G. on the 7th April,* 1865.

Recites that doubts had arisen under the Code of Civil Procedure as to the jurisdiction of the Courts of Revenue and Chief Commissioner, &c., in Oudh, and the expediency of removing those doubts.

1. Interprets words of Number, and the words "Courts of Revenue," "Land."

2, 3. Declares that the Courts of Revenue and of the Financial Commissioner shall exercise jurisdiction in all suits in any District relating solely to the title, succession, or possession of land, during the period that any settlement of the Land Revenue is in progress, and during the continuance of such settlement, and for any further period notified in Gazette, &c.; and authorizes the Governor General in Council to invest Appellate powers in any officer, &c.; and (3) makes the Financial Commissioner the highest Court of Appeal from the Revenue Courts, and prescribes for it the same rules of Procedure as the Sudder Court; and for all Courts the Code of Civil Procedure.

4. Makes the jurisdiction conferred on the Courts of Revenue and the Financial Commissioner exclusive for the suits in Section 2 specified.

5—8. Repeals the Law of Limitation for bringing suits relating to under-tenures, as to all causes of action which have arisen since February 13th, 1844, except as to suits by persons claiming only as tenants at will, or as having a right of occupancy, or as tenants at fixed or favorable rates; and (6) revives suits which had been dismissed or rejected under the Law of Limitation repealed by the last Section, provided a Petition to revive be brought within six months from date of the Act; the Petition to be on Stamped Paper; and (7) such revived suits to be heard and determined in the Civil Courts according to their respective jurisdictions, &c.; and (8) makes decrees, &c., on such suits valid notwithstanding any provision in the operation of the Code of Civil Procedure.

Preamble.

Whereas, before the introduction of the Code of Civil Procedure into the Province of Oudh, the jurisdiction in suits relating to the title or succession to land in the said Province, or to the possession of land, or to any right in respect of any land, was vested exclusively in the Courts of Revenue and in the Financial Commissioner, and after that office became vacant, in the Chief Commissioner; and whereas since the introduction of the said Code doubts have arisen whether such suits are cognizable in the first instance by the ordinary Civil Courts and on appeal by the Judicial Commissioner, or in the first instance by the Revenue Courts and on appeal by the Chief Commissioner, or Financial Commissioner whose office has now been revived; and whereas it is expedient to remove such doubts and to enlarge the period of limitation within which certain classes of suits may be entertained under this Act, it is enacted as follows:

Interpretation clause.

I. In the construction of this Act, except where there is something repugnant in the subject or context—

Number.

Words in the singular number shall include the plural, and words in the plural number shall include the singular.

"Courts of Revenue."

"Courts of Revenue" include Officers employed in making or revising Settlements.

"Land."

"Land" does not apply to any land excluded from a Settlement of Land Revenue, whether the Revenue be paid to Government or to the assignee of Government.

Suits and appeals relating to land during progress of Revenue Settlement to be cognizable by Courts of Revenue and Financial Commissioner.

II. In any District in the Province of Oudh in which a Settlement of the Land Revenue is in progress, all suits of whatever description arising in such District relating solely to the title or succession to land, or to the possession of land, or to any right in respect of any land, shall, during the continuance of such Settlement and for such further period thereafter as the Governor General of India in Council, by notice to be published in the Official Gazette, may appoint, be cognizable in the first instance in the Courts of Revenue of the said Province, and in the last resort upon appeal by the Financial Commissioner. The Governor General of India in Council may invest any Officer with the powers of a Court of first appeal between the Court of first instance and the Financial Commissioner, and shall fix the periods within which appeals shall be preferred from the decisions of the Court of first instance to the Court of first appeal, or, when there is no such Court, to the Financial Commissioner, and from the decisions of the Court of first appeal, when there is such Court, to the Financial Commissioner: provided that where in a case of succession or inheritance the claim shall relate not only to land but to land and other property not permanently attached to the land comprised in the claim, neither the Revenue Courts nor the Financial Commissioner shall have jurisdiction under this Section.

Powers of Financial Commissioner as highest Court of appeal.

III. The Financial Commissioner shall, with respect to suits cognizable by the Revenue Courts under the Second Section of this Act, be deemed the highest Court of Appeal in the Province of Oudh within the meaning of the Code of Civil Procedure, and shall have and exercise in respect of such suits all the powers vested in the Sudder Court and shall be subject to all the rules prescribed with reference to the Sudder Court by such Code, subject to the restrictions, limitations and provisos with which the Code was extended to the said Province as contained in the declaration of the Governor General in Council, bearing date the Sixth August, 1861. Subject to the same restrictions, limitations and provisos, the proceedings of the Courts of First Appeal and the Court of First Instance shall be regulated by the Code of Civil Procedure.

IV. Subject to the proviso in the Second Section of this Act, no suit relating to the title or succession to land in Oudh, or to the possession of land, or to any right in respect of any land shall, during the period limited in the said Section, be instituted or tried in any Court, or before any Authority, except in the Courts or before the Authorities hereinbefore in that behalf specified.

Suits not to be instituted or tried by any other than the Court or authority before specified.

V. No suit relating to any under-tenure which shall be cognizable in any Revenue Court under this Act shall be debarred from a hearing under the rules relating to the limitation of suits in force in the Province of Oudh, if the cause of action shall have arisen on or after the Thirteenth day of February, 1844. Provided that this Section shall not apply to any suit by a person claiming only a right to cultivate as a tenant-at-will, or as a tenant with the right of occupancy, or as a tenant at fixed or favorable rates.

Limitation rules not to apply to certain suits relating to under-tenures.

VI. Any suit or appeal relating to any under-tenure (not being a suit within the proviso contained in the last preceding Section), cognizable under this Act by any Revenue Court, which may have been rejected or dismissed on the ground that the suit was barred by lapse of time under the law of limitation in force in the Province of Oudh, may be revived and heard on the merits, if the cause of action shall have arisen on or after the date mentioned in the last preceding Section: provided that a petition for the revival of the appeal or suit be presented in the Court of the Financial Commissioner if the rejection or dismissal took place in appeal, or in the Court of first instance if the rejection or dismissal took place in that Court, within six calendar months from the date of the passing of this Act. The petition may be written on paper bearing the stamp required for petitions presented to the Financial Commissioner or subordinate Revenue Court, as the case may be.

Certain suits relating to under-tenures dismissed on ground of limitation-bar may be revived.

VII. All suits relating to the proprietary right in, succession to or possession of, any land, or to any right in respect to any land, which shall be instituted after the expiration of the period appointed in

Procedure applicable to suits relating to land instituted after period mentioned in Section 2.

the Second Section of this Act, shall be heard and determined in the Civil Courts of the Province of Oudh according to their respective jurisdictions, under and subject to all the rules contained in the Code of Civil Procedure as the same shall have been extended to such Province, and not otherwise.

Saving of orders and decisions of Revenue Courts after the extension of Code of Civil Procedure to Oudh.

VIII. No order or decision made or passed by any Revenue Court in Oudh subsequently to the extension of the Code of Civil Procedure to the Province and before the passing of this Act, in any suit relating to the proprietary right in, succession to or possession of, any land, or to any right in respect of any land, in the said Province, shall be invalid by reason of anything contained in the said Code.

By Act XIII., 1866, certain suits are exempted from the existing rules of limitation, and that Act is to be read with the above Act.

CUSTOMS DUTIES ON EXPORTS AND IMPORTS.

ACT No. XVII. OF 1865.

[*Received the assent of the G. G. on the 10th April, 1865.*

Recites expediency of amending the Law relating to Customs Duties.

1—3. Substitutes Duties in Schedules A and B for Duties under Acts VII., 1859; XXIII., 1859; X., 1860; XI., 1862; XXIII., 1862; XXIII., 1864. Saving, however, existing Duties on Salt and Opium, Free Ports, the provisions of Act VI., 1848, and the provisions of the Consolidated Customs Act: this Act as respects Saltpetre to take effect as from March 9th, 1865, and (3) to be called the Indian Customs' Duties Act of 1865.

Schedule A. Import Duties. B. Export Duties.

Preamble.

Whereas it is expedient to amend the Law relating to Customs duties, it is enacted as follows:

Customs Duties to be levied as prescribed in the Schedules annexed to this Act.

I. In lieu of the Customs Duties authorized to be charged in Act VII. of 1859 (*to alter the duties of Customs on goods imported or exported by Sea*), Act XXIII. of 1859 (*to alter the rates of duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively*), Act X. of 1860

(*to amend Act VII. of* 1859 *to alter the duties of Customs on goods imported or exported by Sea*), Act XI. *of* 1862 (*to amend Act X. of* 1860 *to amend Act VII. of* 1859), Act XXIII. of 1862 (*to amend Act XI. of* 1862), and Act XXIII. of 1864 (*to amend the law relating to the Customs Duties on goods imported by Sea*), there shall be levied and collected the duties specified in the two Schedules A and B annexed to this Act. Provided always that nothing herein contained shall be deemed to alter the existing duties upon Salt and Opium, or to authorize the levy of duties in any free Port, or to affect the provisions of Act VI. of 1848 (*for equalizing the duties on goods imported and exported on Foreign and British bottoms, and for abolishing duties on goods carried from Port to Port in the Territories subject to the Government of the East India Company*), or to affect the provisions of the Consolidated Customs Act.

Operation of Act.

II. So far as regards the Customs Duty on the export of Saltpetre, this Act shall take effect as if it had been passed and had received the assent of the Governor General on the Ninth day of March, 1865; but save as aforesaid, this Act shall take effect from the First day of April, 1865.

Short title.

III. This Act shall be cited as "The Indian Customs Duties Act of 1865."

Schedules repealed by Act XXV., 1865.

The Customs Duties are now contained in Act XVII., 1867, "The Indian Customs Duties Act, 1867."

STAMP DUTIES.

ACT No. XVIII. OF 1865.

[*Received the assent of the G. G. on the* 10*th April,* 1865.

1, 2. Repeals Act X., 1862, Section 33; and (2) empowers the Governor General in Council to reduce or remit the Stamp Duties prescribed by that Act.

3, 4. Amends Act X., 1862, Schedule B, Art. 11, and (4) makes this Act part of said Act.

Preamble

Whereas it is expedient to amend Act No. X. of 1862 (*to consolidate and amend the law relating to Stamp Duties*), it is enacted as follows:

Act X. of 1862, Section 33, repealed.

I. The Thirty-third Section of the said Act No. X. of 1862, is hereby repealed, and the following Section shall be read in lieu thereof.

Governor General in Council may lower rates of Stamp Duty on any Deeds, &c., mentioned in the Schedule, or on any class of such Deeds, &c.

II. The Governor General of India in Council may, from time to time, by an order to be published in the Official Gazette, reduce or remit in the whole or any part of the Territories to which the said Act X. of 1862 applies, the Stamp Duties prescribed by the said Act and chargeable on all or any of the Deeds, Instruments, and Writings mentioned in the Schedule thereto, or on any particular class of such Deeds, Instruments, and Writings, or on any of the Deeds, Instruments, and Writings belonging to such class, or on any of the Deeds, Instruments, and Writings as aforesaid, when executed or granted by or to any particular class of persons, or by or to any members of such class, and may in like manner cancel or vary such order to the extent of the powers hereby given. Such cancelment or variation shall also be published in the Official Gazette.

Addition to Act X. of 1862, Schedule B, Article 11.

III. Article 11 of Schedule B to Act X. of 1862 shall be read as if after the words and figures "Act III. of 1859," the following words were inserted, that is to say, "or in Courts of Small Causes established under Section VI. of Act XXII. of 1864" (*to make provision for the administration of Military Cantonments*).

This Act to be taken as part of Act X. of 1862.

IV. This Act shall be read with and taken as part of the said Act No. X. of 1862.

See Act XXVI., 1867, s. 9.

PUNJAB COURTS' ACT, 1865.

ACT NO. XIX. OF 1865.

[*Received the assent of the G. G. on the 10th April, 1865.*

1. Entitles the Act, "The Punjab Courts Act, 1865."

2. Interprets the words Assistant Commissioner, Extra Assistant Commissioner, Land, District, District Court, Division, Divisional Court.

3. Defines what shall be a District and what a Division.

4—12. Directs the appointment of seven grades of Courts, and names them; and (5) empowers the Local Government to invest any Tahsildar; and (6) any Naib Tahsildar with judicial powers to extent specified; and (7) gives the Assistant Commissioner and (8) the Assistant Commissioner with special powers jurisdiction to extent specified; and (9) limits and appoints the Criminal Powers of the 1st, 2nd, and 3rd grades; and (10) gives the Assistant Commissioner with full Powers Civil Jurisdiction to extent specified; and (11) the Deputy Commissioner unlimited jurisdiction on the Civil side, and Appellate jurisdiction, and the powers of a Magistrate on the Criminal side, and Appellate powers to extent specified; and (12) gives the Commissioner general jurisdiction in Civil suit both Original and Appellate, the latter from Courts of the 4th, 5th, and 6th grades, and the Criminal Powers, Original and Appellate, of Sessions Judge.

13. Directs that every suit shall be commenced in the lowest grade of Court competent to try it.

14. Empowers the Deputy Commissioner to distribute business among the different Courts subordinate to him.

15. Empowers the Commissioner and Deputy Commissioner to withdraw any suit from subordinate Court and try it, and Commissioner to withdraw any appeal from Deputy and try it, or transfer it to other Deputy.

16. Empowers Judicial Commissioner to withdraw any suit or appeal from any Subordinate Court, and to refer it to other Court.

17. Allows suits for immoveable property situate in one District, but within several jurisdictions, to be brought in any of the Local Courts having competent jurisdiction, &c.

18, 19. Similar provision as to suits for immoveable property situate in same Division, but within several jurisdictions.

20. Empowers Local Government with sanction of Governor General in Council, to invest any Officer with the Judicial powers of Deputy or Commissioner, when cases depending are so numerous as not to be disposed of in reasonable time.

21, 22. In Districts in which settlement of Land Revenue is in progress, Local Government may empower the Tahsildar, Assistant and Deputy Commissioners and Commissioner to exercise their powers on the Revenue side of their Courts; and (22) in such Districts the Local Government may invest the Financial Commissioner with the powers of Judicial Commissioner for purpose of trying Special Appeals, &c., and such powers of Judicial Commissioner shall cease when those of Financial Commissioner begin.

23. Excludes from jurisdiction of Revenue Courts and Financial Commissioner cases of succession and inheritance in which the suit relates to other property besides land.

24. Objections to the authority of an Officer not to affect the validity of his decision.

25. Act to come into operation on 1st May, 1865.

Whereas it is expedient to define the jurisdiction of the Courts of Judicature in the Punjab and its Dependencies, it is enacted as follows:

Preamble.

Short title.

I. This Act shall be called "The Punjab Courts Act, 1865."

Interpretation clause.

II. In this Act—

"Assistant Commissioner."

"Assistant Commissioner" includes "Extra Assistant Commissioner."

"Land."

"Land" does not apply to any land excluded from a Settlement of Land Revenue, whether the Revenue be paid to Government or to the Assignee of Government.

"District."
"District Court."
"Division."
"Divisional Court."

III. For the purposes of this Act the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court. The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

Grades of Courts in the Punjab.

IV. There shall be seven grades of Courts in the Punjab, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, unless otherwise provided in such Act, namely:—

(1.) The Court of the Tahsildar.

(2.) The Court of the Assistant Commissioner with ordinary powers.

(3.) The Court of the Assistant Commissioner with special powers.

(4.) The Court of the Assistant Commissioner with full powers.

(5.) The Court of the Deputy Commissioner.

(6.) The Court of the Commissioner.

(7.) The Court of the Judicial Commissioner. [See Act IV., 1866, The Punjab Chief Court Act, 1866.]

Jurisdiction of Tahsildar.

V. The Local Government may invest any Tahsildar with power to try and determine suits of every description not exceeding three hundred Rupees in value or amount.

VI. The Local Government shall also have power, from time to time, specially to invest any Naib Tahsildar with the powers of a Tahsildar as aforesaid within such limits as it may think proper, and to withdraw such powers.

Local Government may in special cases give Naib Tahsildars powers of Tahsildar.

VII. The Assistant Commissioner with ordinary powers shall have power to try and determine suits of every description not exceeding one hundred Rupees in value or amount.

Jurisdiction of Assistant Commissioner with ordinary powers.

VIII. The Assistant Commissioner with special powers shall have power to try and determine suits of every description not exceeding five hundred Rupees in value or amount.

Jurisdiction of Assistant Commissioner with special powers.

IX. The Criminal powers to be exercised by the Courts of the said First, Second, and Third grades respectively, shall be those with which the several Officers presiding in those Courts shall from time to time be invested by the Local Government under Section 23 of the Code of Criminal Procedure.

Criminal Powers to be exercised by Courts of the 1st, 2nd, and 3rd grades.

X. The Assistant Commissioner with full powers shall, on the Civil side, have power to try and determine suits of every description under ten thousand Rupees in value or amount, and on the Criminal side to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure.

Jurisdiction of Assistant Commissioner with full powers.

XI. The Deputy Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value or amount, and to hear appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Punjab, from decisions and orders of the first three grades of Courts mentioned in the Fourth Section of this Act, and on the Criminal side, to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure, and to hear appeals according to the provisions of the same Code relating to the hearing of appeals by Magistrates from the sentences and orders of Courts subordinate to the Magistrate of the District. The Deputy Commissioner may also be invested by the Local Government

Jurisdiction of Deputy Commissioner.

with the powers described in Act No. XV. of 1862 (*to amend the Code of Criminal Procedure*). [See Act XXVII., 1867, as to powers of Deputy Commissioners.]

Jurisdiction of Commissioner.

XII. The Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value or amount, and to hear and determine appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Punjab, from decisions and orders of the Courts of the said fourth and fifth grades, and, on the Criminal side, to exercise the powers of a Sessions Judge as defined in the Code of Criminal Procedure, and to hear appeals from the subordinate Courts according to the provisions of the same Code relating to the hearing of appeals by the Sessions Court.

Court in which suit shall be instituted.

XIII. Every suit shall be instituted in the Court of the lowest grade competent to try it: provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Distribution of business in Courts subordinate to Deputy Commissioner.

XIV. The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit: provided that no Court shall try any suit the value or amount of which shall exceed its proper jurisdiction.

Power of Commissioner or Deputy Commissioner to withdraw suits from subordinate Courts.

XV. The Commissioner or Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself, or refer it for trial to any other Court subordinate to him, and competent in respect of the value or amount of the suit to try the same. The Commissioner may also withdraw any appeal from the Court of any Deputy Commissioner subordinate to him, and try the appeal himself, or refer it for trial to the Court of any other Deputy Commissioner in his Division.

Power of Judicial Commissioner to transfer suits.

XVI. The Judicial Commissioner may withdraw any suit or appeal from any Court subordinate to him other than Courts of Small Causes or

Courts of Cantonment Magistrates, and refer such suit or appeal for trial to any other Court subordinate to him and competent in respect of the value or amount of the suit to try the same.

Suits for immoveable property situate within different jurisdictions of single District.

XVII. If the suit be for immoveable property situate within the limits of a single District, but within the jurisdiction of different Courts, the suit may be brought in the Court within whose jurisdiction any portion of the property is situate, provided that, in respect of the value of the property in suit, the entire claim be cognizable by such Court. In such case the Court in which the suit is brought shall apply to the District Court for authority to proceed with the same, and the District Court, after hearing the objections, if any, of the defendant, may grant such authority.

Suits for immoveable property situated in different Districts.

XVIII. If the suit be for immoveable property situate within the limits of different Districts within the same Division, the suit may be brought in any Court otherwise competent to try it, within the jurisdiction of which any portion of such property is situate; but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same; and such Commissioner, after hearing the objections, if any, of the defendant, may grant authority accordingly. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situate in Districts subject to different Commissioners.

XIX. If the Districts within the limits of which the immoveable property is situate are subordinate to different Commissioners, the application mentioned in the last preceding Section shall be submitted to the Commissioner in whose Division the District in which the suit is brought is situate, and such Commissioner, after hearing the objections, if any, of the defendant, may give authority to proceed with the suit.

Local Government may invest additional Officers with powers of Commissioner, and

XX. Whenever the number of cases depending in any District or Divisional Court shall be so great as to prevent their being disposed of within a reasonable period, the Local Government

Small Cause Court Judges with powers of Assistant Commissioner.

may, with the previous sanction of the Governor General of India in Council, invest any Officer with the Civil and Criminal powers of a Deputy Commissioner or Commissioner, as defined in this Act, in such District or Division as the case may be.

Local Government may invest special Officers with Civil powers of Commissioners, &c., in Districts in course of settlement.

XXI. In any District in which a Settlement of Land Revenue is in progress, the Local Government may, on its own authority, empower and direct the Tahsildars, Assistant Commissioners, Deputy Commissioner, and Commissioner in such District, to exercise their respective powers as defined in this Act in suits regarding land, or the rent, revenue, or produce of land, on the Revenue, and not on the Civil side of their Courts. The Local Government may also, with the previous sanction of the Governor General of India in Council, invest any special Officer in such District with the Civil powers of a Commissioner, Deputy Commissioner, Assistant Commissioner, or Tahsildar, as defined in this Act, for the purpose of deciding suits in respect to land, or the rent, revenue, or produce of land; such powers to be exercised on the Revenue side: provided that in all such suits as aforesaid no deviation shall be allowed from the Rules of Civil Procedure in force, and that the powers given under this Section shall continue only so long as Settlement operations are in progress in this District, and shall cease on the termination thereof.

Local Government may invest Financial Commissioner with powers of Chief Court for certain purposes.

XXII. In any District in which a Settlement of Land Revenue is in progress, the Local Government may invest the Financial Commissioner with the powers of the Judicial Commissioner for the purpose of trying special appeals from Commissioners and Deputy Commissioners in all decisions passed by them in regular appeal under the Twenty-first Section of this Act, and with the power of a Court of final appeal in any class of suits regarding land, or the rent, revenue, or produce of land:

Proviso.

provided that in the trial of such appeals no deviation shall be allowed from the Rules of Civil Procedure in force, and that the power given under this Section shall continue only so long as Settlement operations shall be in progress, and shall cease on the termination thereof. So

long as the Financial Commissioner may be invested with powers as aforesaid, the jurisdiction of the Judicial Commissioner in respect to the appeals hereby made cognizable by the Financial Commissioner shall be suspended.

XXIII. Whenever in a case of succession or inheritance the claim shall relate not only to land but to land and other property not permanently attached to the land comprised in the claim, neither the Revenue Courts nor Financial Commissioner shall have jurisdiction under the Twenty-first or the Twenty-second Section of this Act.

Exclusion of jurisdiction, under Sections 21 and 22, of Revenue Courts and Financial Commissioner.

XXIV. No decision or order passed by any Officer in the Punjab and its Dependencies prior to the passing of this Act, shall be invalid solely on the ground of a doubt existing as to the authority of the Officer who passed the decision or order.

Saving of decisions and orders passed before passing of this Act.

XXV. This Act shall commence and come into operation on the First day of May, 1865.

Commencement of Act.

Act IV., 1866, is entitled "The Punjab Chief Court Act, 1866," and amends the constitution of the Court of the Judicial Commissioners.

By Act XXVII., 1867, that Act is to be read and taken as part of the above Act.

PLEADERS, MOOKHTARS, AND REVENUE AGENTS' ACT, 1865.

ACT No. XX. OF 1865.

[*Received the assent of the G. G. on the* 10*th April*, 1865.

Recites the expediency of amending the Law relating to Pleaders and Mookhtars, &c.

Preliminary.

1. Entitles the Act, "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865."

2. Interprets words of Number and the words Section, Person, Pleader, Collector, Magistrate, Judge, Court, District, District Court, Local Government, High Court, Board of Revenue.

3. Repeals as to Territories to which this Act extends the Scheduled Regulations and Acts.

Of Pleaders and Mookhtars.

4, 5. Authorizes and requires the High Court, within six months after this Act shall take effect, to make Rules for the qualification, admission, &c., of Pleaders and Mookhtars in the Courts, and for fees to be paid on admission, &c.; and (5) excludes from practice persons not admitted according to the Rules, &c.; saving, however, that persons entitled, when this Act comes into operation, to be admitted as Pleaders in the High Court may be admitted without examination.

6. Authorizes Local Government to appoint a Board of Examiners.

7—10. Requires High Court to enrol the names of admitted Pleaders and Mookhtars; and (8) to cause Certificates of Admission to be issued, (9) on Stamp Paper in form as in Schedule; and (10) such Stamps to be graduated as specified.

11—15. Entitles Pleaders who are admitted to plead and act in any Criminal Court or before Board of Revenue, and Mookhtars to appear and act in Civil Court, and appear, plead and act in any Criminal Court, in which (12) they shall previously have procured enrolment for the purpose of practising therein, but these provisions not to apply to Courts established by Royal Charter; and (13) subjects persons practising as Pleaders and Mookhtars to penalties for practising without Certificate, and to disability to recover remuneration for their services; and (14) empowers the High Court to suspend or dismiss any enrolled Pleader or Mookhtar who shall have been convicted of any criminal offence, or (15) shall be guilty of fraudulent conduct in his profession, or for any other reasonable cause.

16—18. Directs the mode of procedure in charges under this Act, the finding of the Court to be reported to the High Court, which shall thereupon acquit, suspend or dismiss the party, and, pending the investigation, the party may be suspended from practising, &c.; and (17) in case of acquittal by any Court other than the High Court, the Judge's Court may call for the proceedings and pass orders thereon; and (18) on suspension or dismissal the party shall deliver up his Certificate, under penalty, and liability to fine if he practises after suspension, &c.

Of Agents practising in the Revenue Offices.

19—22. Prohibits persons other than Certificated Pleaders from practising as General Agents before Board of Revenue, &c.; and directs by whom Certificates may be signed; and (20) requires enrolment of person admitted; and (21) prescribes the form of Certificate, which shall be for one year, on Stamp Paper, and may be renewed, such stamp (22) to be of specified amounts.

23, 24. Directs the Board of Revenue to prepare Rules to define the qualifications for a Certificate, and to satisfy themselves of fitness before Certificate is granted; and (24) Local Government to appoint Examiners.

25. Directs Certificated Agent to be enrolled in office in which he intends habitually to practise.

26—30. Empowers Board of Revenue to suspend or dismiss any Revenue Agent convicted of criminal offence; and (27) who may be guilty of fraudulent conduct, &c., in his office, or for other reasonable cause; and (28) if the latter offence be committed in practice before the Board, the Board after enquiry shall report to the High Court, which, on further enquiry if it sees fit, is to proceed to acquit, suspend or dismiss the party; and pending proceedings of the High Court, the Board of Revenue may suspend the party; and (29) directs the mode of procedure, when the offence is committed in an Office subordinate to the Board; and (30) authorizes the Board to call for the record, whenever the acquittal was otherwise than by an order of itself or the High Court.

31—34. Entitles the High Court after enquiry to suspend or dismiss any Mookhtar who has been dismissed or suspended as Revenue Agent; and (32) extends to Pleader and Mookhtar who has been suspended the provisions of Sections 28, 29, 31; and (33) requires delivery up of the Certificate on suspension or dismissal, under penalty specified; and (34) imposes a penalty on persons practising while under suspension or after dismissal.

35, 36. Saves the right of the parties concerned in business before any Revenue Office to employ special agent, though not an enrolled practitioner, with the general or special sanction of the Board of Revenue, &c.; which sanction (36) may be revoked, &c.

Of the Remuneration of Pleaders and Revenue Agents.

37—39. Directs and authorizes the High Court and Board of Revenue to fix and make a Table of Fees to be allowed as against opposite party; but (38) not for special Agents under Section 35; and (39) allows remuneration to be fixed by private agreement as between the suitor and his own Pleader, &c.

Miscellaneous.

40. Entitles suitors to appeal, plead and act for any co-suitor; and defendant in criminal proceeding may employ any person to assist him in his defence, but without fee.

41. Directs publication in Gazette of all Rules made under the Act, the same having first been approved by Local Government.

42. Makes Fines under this Act subject to revision by High Court or Board of Revenue.

43, 44. Saves to existing Pleaders the right to be enrolled under this Act; and (44) except Section 39, this Act is not to apply to Advocates, Vakeels and Attornies-at-Law already enrolled in High Court, nor to existing Mookhtars of High Court. But High Court may make rules for qualification, admission, &c., of such Mookhtars on the Appellate side, and for the regulation of their Fees.

45, 46. Saves the right of High Court Advocates and Vakeels to practise in any Court in which he is not enrolled, with permission of the Court, &c.; and (46) gives High Court Attornies the right to practise in any Court in India, &c.

47, 48. Act to come into operation in Bengal on June 1st, 1865, and may be extended by Local Governments to their territories; and (48) from time of extension, Regulations inconsistent with this Act to cease.

Schedule First—Acts, &c., repealed. Second—Form of Pleaders or Mookhtars' Certificates. Third—Form of Revenue Agent's Certificate.

Preamble.

Whereas it is expedient to amend the law relating to Pleaders and Mookhtars, and to provide rules for the qualification, admission, enrolment, suspension and dismissal of Revenue Agents, it is enacted as follows:

Preliminary.

Short title.

I. This Act may be cited as "The Pleaders, Mookhtars and Revenue Agents' Act, 1865."

Interpretation of terms.

II. In this Act, unless there be something repugnant or inconsistent in the subject or context—

Number.

Words importing the singular number include the plural, and words importing the plural number include the singular.

"Section."

"Section" means a Section of this Act.

"Person."

"Person" includes any Company or Association or body of persons, whether incorporated or not.

"Pleader."

"Pleader" includes Vakeel.

"Collector."

"Collector" includes Officers performing any of the duties of a Collector of Land Revenue.

"Magistrate"

"Magistrate" includes Officers exercising any of the powers of a Magistrate.

"Judge."

"Judge" means the presiding Judicial Officer in every Civil and Sessions Court by whatever title he is designated.

"Court."

"Court" means all Courts subordinate to the High Court, including Courts of Small Causes.

"District." "District Court."

"District" means the local jurisdiction of the principal Civil Court of original jurisdiction; and "District Court" means such Court, and includes Sessions Courts, and for the purposes of this Act, the Courts of a Commissioner and Deputy Com-

missioner or any other Court in the Territories known as Non-Regulation, exercising like powers as those of a Commissioner and Deputy Commissioner or of a Civil and Sessions Judge.

And in any part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the executive Government in such part: "High Court" denotes the highest Civil Court of Appeal, and "Board of Revenue" denotes the chief Revenue Authority therein.

"Local Government."

"High Court."

"Board of Revenue."

III. So far as they affect the Territories to which this Act extends, the enactments set forth in the First Schedule hereto are repealed, except so far as they repeal any other enactment, and except as to the recovery and application of any penalty for any offence which shall have been committed before the commencement of this Act.

Laws repealed.

Of Pleaders and Mookhtars.

IV. The High Court is hereby authorized and required, within six months after this Act shall take effect in the Territories in which such Court exercises jurisdiction, to make rules for the qualification, admission, and enrolment of proper persons to be Pleaders and Mookhtars of the Courts in such Territories, for the fees to be paid for the examination, admission, and enrolment of such persons, and, subject to the provisions hereinafter contained, for the suspension and dismissal of the Pleaders and Mookhtars so admitted and enrolled. The High Court may also from time to time vary and add to such rules.

High Court to make rules for qualification, &c., of Pleaders and Mookhtars.

V. Except as hereinafter provided, no person shall appear, plead or act as a Pleader, or appear or act as a Mookhtar in any Court to which this Act extends, unless he shall have been admitted and enrolled and shall be otherwise duly qualified to practise as a Pleader or as a Mookhtar, as the case may be, pursuant to the provisions of this Act, and unless he shall continue to be so qualified and enrolled at the time of his practising as a Pleader or Mookhtar as aforesaid. Provided that every person who at the time at which this Act shall

No person to practise as a Pleader or as a Mookhtar unless qualified under this Act.

Saving of Pleaders already qualified.

come into operation in any part of British India shall be, or shall be qualified to act as, a Pleader in any Court in such part, by virtue of any law, rule or order in force therein, shall be entitled to be admitted and enrolled as a Pleader in the High Court pursuant to the provisions of this Act, without passing any examination, but subject to the conditions of any certificate or diploma held by him as to the class of Courts in which such certificate or diploma authorizes him to practise.

Local Government to appoint Examiners

VI. To facilitate the ascertainment of the qualifications mentioned in the Fourth Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid, and make regulations for conducting such examinations.

Names of Pleaders and Mookhtars to be enrolled

VII. The High Court shall cause the name of every person who shall be admitted a Pleader or a Mookhtar pursuant to the provisions of this Act, to be enrolled in books to be provided and kept for that purpose in such Court. The Courts shall take judicial notice whether a Pleader or Mookhtar is enrolled or not.

Certificates to be issued to Pleaders and Mookhtars

VIII. The High Court shall cause certificates, signed by such Officer as the Court shall appoint, to be issued to persons who have been admitted and enrolled under the provisions of this Act as Pleaders or Mookhtars, and are entitled to practise as such. Any such certificate, when renewed as provided in the Ninth Section, may be issued and signed by the Officer so appointed, or by the Judge of the District Court within the limits of whose jurisdiction the holder of the certificate shall then ordinarily practise. Every Judge so renewing a certificate shall notify such renewal to the High Court.

Form and duration of certificate

IX. Every certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the Second Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall be entitled to have his certificate renewed, and on every such renewal the certificate then in the holder's

possession shall be cancelled and retained by the Officer or Judge signing the renewed certificate.

Value of stamp on certificate

X. The stamp on the certificate, whether original or renewed, shall be of the following value:—

On a certificate authorizing the holder to practise as a Pleader.

(*a*) In the High Court and any subordinate Court—Rupees Fifty.

(*b*) In the District Courts, Subordinate Courts, and Small Cause Courts—Rupees Twenty-five.

(*c*) In the Sudder Ameens' and Moonsiffs' Courts, and in the Courts of Assistant Commissioners, Extra Assistant Commissioner, and Tahsildars—Rupees Fifteen.

(*d*) In the Moonsiffs' Courts or any Court of First Instance not hereinbefore mentioned—Rupees Five.

On a certificate authorizing the holder to practise as a Mookhtar—

(*e*) In the High Court and any Subordinate Court—Rupees Twenty-five.

(*f*) In the District Courts, Subordinate Courts, and Small Cause Courts—Rupees Sixteen.

(*g*) In the Courts of the Commissioners of Circuit, Magistrates and Subordinate Magistrates: in Sudder Ameens' and Moonsiffs' Courts, and in the Courts of Assistant Commissioners, Extra Assistant Commissioners and Tahsildars—Rupees Eight.

(*h*) In the Moonsiffs' Courts or any Court of First Instance not hereinbefore mentioned—Rupees Four.

Pleaders may practise in Criminal Courts and Revenue Offices

XI. Pleaders duly admitted and enrolled under this Act may appear, plead, and act in any Criminal Court, or before any Board of Revenue, or in any Revenue Office within the limits of the general jurisdiction of the High Court in which they are enrolled.

Mookhtars may plead in Criminal Courts.

Mookhtars duly admitted and enrolled as aforesaid may, subject to the conditions of their certificates as to the class of Courts in which they are authorized to practise, appear and act in any Civil Court, and may appear, plead and act in any Criminal Court within the same limits.

XII. Every person who shall have been admitted to practise as a Pleader or Mookhtar under the provisions hereinbefore contained may, subject to the conditions of his certificate as to the class of Courts in which he is authorized to practise, apply to be enrolled in the Court in which he shall desire ordinarily to practise; and on such application he shall be enrolled in a book to be kept for that purpose in such Court. Provided that neither this Section nor the last preceding Section shall apply to any Court established by Royal Charter.

Persons admitted in one Court admissible to practise in other Courts of same or subordinate jurisdiction.

XIII. Except as hereinafter provided, any person who shall practise as a Pleader or Mookhtar in any Civil or Criminal Court or Revenue Office to which this Act extends, without having previously obtained a properly stamped certificate authorising him so to practise, which certificate shall be then in force, shall be liable by order of such Court or the Officer at the head of such Office to a fine not exceeding ten times the amount of the stamp required by this Act to be impressed on the certificate which he should then have held, and, in default of payment, to imprisonment in the Civil gaol for a period not exceeding six calendar months. He shall also be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him as such Pleader or Mookhtar whilst he shall have been without such certificate.

Uncertificated persons practising as Pleaders or Mookhtars to be liable to fine or imprisonment and to be incapable of recovering fees.

XIV. The High Court may suspend or dismiss any Pleader or Mookhtar enrolled under this Act in such Court, who shall be convicted of any criminal offence.

High Court may suspend or dismiss Pleader or Mookhtar convicted of a criminal offence.

XV. The High Court may also, after such enquiry as it may deem proper, suspend or dismiss any Pleader or Mookhtar enrolled as aforesaid, who shall be guilty of fraudulently or grossly improper conduct in the discharge of his professional duty or for any other reasonable cause.

High Court may suspend or dismiss any Pleader or Mookhtar practising therein and guilty of unprofessional conduct.

XVI. If any Pleader or Mookhtar practising in any Court subordinate to the High Court, shall be charged in such subordinate Court with

Procedure when charge of unprofessional con-

duct is brought in a Subordinate Court.

any such conduct as aforesaid, the Judge or Magistrate of the Court, as the case may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the Pleader or Mookhtar at least ten days before the day so appointed; and on such day, or on any subsequent day to which the enquiry may be adjourned, the Court shall receive all evidence properly tendered by or on behalf of the party bringing the charge, or by the Pleader or Mookhtar, and shall proceed to adjudicate on the charge. If the Judge or Magistrate shall find the charge established, and consider that the Pleader or Mookhtar should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend, or dismiss the Pleader or Mookhtar. Such report, when made by any Officer other than the District Judge, shall be submitted to the High Court through the District Judge, who shall accompany the report with any remarks that he may think necessary, and an expression of his own opinion on the case. Such report, when made by a Magistrate subordinate to the Magistrate of the District, shall be submitted through the Magistrate of the District to the District Judge, and shall be accompanied by the remarks and opinion of the Magistrate of the District as aforesaid. The Judge or Magistrate may, pending the investigation and the orders of the High Court, suspend the Pleader or Mookhtar from practising as such in his Court.

Suspension pending investigation.

XVII. The High Court, in any case in which a Pleader or Mookhtar shall have been acquitted under the last preceding Section otherwise than by an order of the High Court, may call for the record and pass such order thereon as shall seem fit.

High Court may call for the record in case of acquittal under Section 16.

XVIII. When any Pleader or Mookhtar shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Court in which he was practising at the time he was so suspended or dismissed, or to any Court to which he shall be ordered by the High Court

Dismissed Pleader or Mookhtar to surrender his certificate.

to deliver the same. If he fail to make such delivery, he shall be liable, by order of such Court, to a fine not exceeding Two hundred Rupees, and, in default of payment, to imprisonment in the Civil gaol for a term not exceeding Three calendar months. If during such suspension or after such dismissal, he shall practise as a Pleader or Mookhtar in any Court, he shall be liable, by order of such Court, to a fine not exceeding Five hundred Rupees, and, in default of payment, to imprisonment in the Civil gaol for a term not exceeding six calendar months.

Of Agents practising in the Revenue Offices.

XIX. No person other than a Pleader duly qualified under the provisions hereinbefore contained, or other than persons authorized by such general or special powers of attorney as are hereinafter mentioned, shall practise as an Agent in any proceeding before the Board of Revenue or in any Office subordinate to such Board, unless he shall have obtained a certificate from such Board in the manner hereinafter provided. Any such certificate, when renewed as provided in the Twenty-first Section, may be issued and signed by the Secretary of the Board, or by any other Officer authorized by the Board in that behalf, or by the Collector of the District within the limits of whose jurisdiction the holder of the certificate shall practise at the time of renewal.

No person to act as Agent in Revenue Offices or Magistrates' Courts, unless qualified as herein provided.

XX. The Board of Revenue shall cause the name of every person (hereinafter called a Revenue Agent) who shall have obtained such certificate to be enrolled in a book to be provided and kept for that purpose by the Secretary of the Board or other Officer authorized by the Board in that behalf.

Names of Revenue Agents to be enrolled.

XXI. Every such certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the third Schedule to this Act, and shall authorise the holder to practice for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and

Form of certificate.

on every such renewal the certificate then in his possession shall be cancelled and retained by the Officer or Collector signing the renewed certificate. Every Collector so renewing a certificate shall notify such renewal to the Board of Revenue.

Value of stamp.

XXII. The stamp on such certificate, whether original or renewed, shall be of the following value:—

On a certificate authorizing the holder to practise as a Revenue Agent—

In the Board of Revenue or in any Office subordinate to the Board, Rupees fifteen.

In the Office of a Commissioner or in any Office subordinate to a Commissioner, Rupees ten.

In the Office of a Collector or in any Office subordinate to a Collector, Rupees five.

Revenue Board to ascertain qualifications of Revenue Agents.

XXIII. The Board of Revenue shall, before they shall grant any such certificate, satisfy themselves of the qualifications and fitness of the person applying for the same; and they are hereby authorized and required within six months after the commencement of this Act in the part of British India in which such Board is situate, to prepare rules for the purpose of defining what qualifications shall be required for such certificate.

Local Government to appoint Examiners.

XXIV. To facilitate the ascertainment of the qualifications mentioned in the last preceding Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid, and make regulations for conducting the examinations.

Enrolment of Revenue Agent in Office in which he shall usually practise.

XXV. Every person who shall have been admitted to practise as a Revenue Agent under this Act, may, subject to the conditions thereof as to the class of Offices in which he is authorized to practise, apply to be enrolled in the Office in which he shall desire ordinarily to practise, and on such application he shall be enrolled in a book to be kept for that purpose in such Office. Any such Revenue Agent shall also be entitled, on production of the certificate held by him, and subject to the conditions as aforesaid, to practise as a Revenue Agent in all other Revenue Offices, within the limits of the Territory under the Board of Revenue in which he is enrolled.

XXVI. The Board of Revenue may suspend or dismiss any Revenue Agent practising in any Revenue Office, who shall be convicted of any criminal offence.

Board of Revenue may suspend or dismiss Revenue Agent convicted of criminal offence.

XXVII. The Board of Revenue may also, after making such enquiry as it may think proper, suspend or dismiss any Revenue Agent practising before such Board, who may be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

Board may suspend or dismiss Revenue Agent practising before it and guilty of unprofessional conduct.

XXVIII. If any Pleader shall, while practising before such Board, be charged with fraudulent or grossly improper conduct in the discharge of his duty in such practice, the Board shall enquire into the charge and report the result to the High Court, and the High Court, after making such further enquiry as it shall think fit, shall proceed to acquit, suspend or dismiss the Pleader, and shall thereupon send notice of such acquittal, suspension or dismissal to the said Board. Pending the investigation and the receipt of the notice last aforesaid, the Board may suspend the Pleader from practising before it.

Procedure when a Pleader is charged with unprofessional conduct before the Board of Revenue.

XXIX. If any Pleader or Revenue Agent shall be charged with any such conduct in any Office subordinate to the Board of Revenue, the Officer at the head of such Office shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the person charged at least ten days before the day so appointed; and on such day or on any other day to which the enquiry may be adjourned, the Officer shall receive all evidence properly tendered by or on behalf of the person bringing the charge, or by the person charged, and shall proceed to adjudicate on the charge. If the Officer find the charge established, and consider that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and report the same to the Board of Revenue, and the Board shall, if the person charged be a Revenue

Procedure when Pleader or Revenue Agent is so charged in any Office subordinate to Board of Revenue.

Agent, proceed to acquit, suspend or dismiss him, and shall, if he be a Pleader, forward such report to the High Court in which he is enrolled. The High Court after making any further enquiry which it shall think necessary, shall proceed to acquit, suspend or dismiss the Pleader so charged, and shall thereupon send notice of such acquittal, suspension or dismissal to the Board by whom such report was forwarded. If the Officer shall be subordinate to the Commissioner of a Division, he shall forward the report through such Commissioner, who shall accompany the same with any remarks that he may think necessary and an expression of his own opinion on the case.

Power to Board to call for record.

XXX. The Board of Revenue, in any case in which a Pleader or Revenue Agent shall have been acquitted under the last preceding Section otherwise than by an order of the High Court or Board, may call for the record and pass such order thereon as shall seem fit, subject, in the case of a Pleader, to the provisions of the Twenty-eighth Section.

Report to High Court when dismissed Revenue Agent is also an enrolled Mookhtar.

XXXI. Whenever a Revenue Agent who has been dismissed or suspended by order of the Board of Revenue shall also be a Mookhtar enrolled under the provisions of this Act, the Board of Revenue shall forward a report of the case to the High Court in which he shall be enrolled; and such Court, after making any enquiry which it may think necessary, may suspend or dismiss him as such Mookhtar.

Section 18 to apply to Vakeel or Mookhtar suspended or dismissed under Sections 28, 29, or 31.

XXXII. The provisions of the Eighteenth Section shall apply to any Pleader or Mookhtar suspended or dismissed under the Twenty-eighth, Twenty-ninth, or Thirty-first Section.

Dismissed Revenue Agent to surrender his certificate.

XXXIII. When a Revenue Agent shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Board of Revenue or the Officer at the head of the Office in which he was practising at the time he was so suspended or dismissed, or to any other Officer whom the Board may order to receive the same. If he fail to make such delivery, he shall be liable by order of the Board or such Officer

as aforesaid to a fine not exceeding Two hundred Rupees, and, in default of payment, to imprisonment in the Civil gaol for a term not exceeding three calendar months.

Penalty on unqualified person practising as Agent.

XXXIV. Every person who shall practise as a Revenue Agent in any Revenue Office in the Territories to which this Act extends, without holding a certificate then in force, and without being duly qualified to practise as herein provided, shall be liable by order of the Board or Officer in whose Office he shall so practise to a fine not exceeding Rupees Two hundred, and, in default of payment, to imprisonment in the Civil gaol for a period which may extend to three calendar months. The person so fined as aforesaid shall be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him in the course of such practising.

Persons authorized by general or special powers of attorney may be Agents.

XXXV. Nothing hereinbefore contained shall prevent any person from employing any other person, though not a Revenue Agent enrolled under the provisions of this Act, to commence and prosecute all business or any particular business in which the employer may be concerned in any Revenue Office: provided that the person so commencing and prosecuting all or any such business as aforesaid shall hold a general or a special power of attorney, as the case may be, in that behalf, from the person so employing him: provided also that no person shall act as last aforesaid, unless he shall have received the general or the special sanction, as the case may be, in that behalf, of the Board of Revenue or other Officer authorized by the Local Government to grant such sanction.

Sanction required.

Sanction may be revoked or suspended.

XXXVI. Such general or special sanction, as the case may be, may at any time be revoked or suspended by the Board of Revenue or other Officer as aforesaid by whom it was granted; and any person who, having received such sanction, shall practise under the Nineteenth Section during the continuance of such revocation or suspension, shall be liable to the penalties and incur the disabilities mentioned in the Thirty-third Section.

Of the Remuneration of Pleaders and Revenue Agents.

XXXVII. The High Court shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Courts by any party in respect of the fees of his adversary's Pleader; and the Board of Revenue shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Revenue Courts and Offices by any party in respect of the fees of his adversary's Pleader or Revenue Agent. Tables of the fees so fixed shall be published in the Official Gazette.

High Court and Revenue Board to fix fees on Civil and Revenue proceedings.

XXXVIII. The provisions of the last preceding Section shall not be applicable to Agents appointed under the Thirty-fifth Section.

Section 37 not to apply to Agents appointed under Section 35.

XXXIX. Parties employing Pleaders, Mookhtars or Revenue Agents in any Court or Office, shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be necessary to specify such agreement in the power under which such Pleaders, Mookhtars, or Revenue Agents for the time being act. Such agreements shall not be enforced otherwise than by regular suit.

Clients may make private agreements with their Pleaders, Mookhtars or Revenue Agents, as to remuneration.

Miscellaneous.

XL. Any suitor may appear, plead and act in any suit, appeal or other proceeding on behalf of any co-suitor. And in all Criminal Courts, any person defending a case may (with the permission of the presiding Judge or Magistrate) employ any other person, though not a Pleader or Mookhtar duly qualified under the provisions of this Act, to assist him in such defence. But no suitor nor person so appearing, pleading, acting or assisting, shall be entitled to recover any fee or reward therefor.

Suitors may appear, &c., for co-suitors.

Prosecutors or prisoners may employ any assistant.

Fees not recoverable by such persons.

XLI. The rules mentioned in the Fourth and Twenty-third Sections and all variations of and additions to such rules, shall be published in three

Rules to be published in the Gazette.

consecutive numbers of the Official Gazette. Rules made under this Act by a High Court not established by Royal Charter shall, before such publication, be submitted to and approved by the Local Government.

Fines subject to revision.

XLII. Every order for imposing a fine which shall be passed under this Act, shall be subject to revision by the High Court if the Order shall have been passed by a Court subordinate to the High Court, or by the Board of Revenue if the order shall have been passed by an Officer subordinate to such Board.

Pleaders in subordinate Courts may apply to District Judge for enrolment.

XLIII. Any person who at the time that this Act shall come into operation in any part of British India shall be practising as a Pleader in any Court in such part, and who shall wish to be enrolled as a Pleader under this Act, may apply to be so enrolled to the Court in which he is practising. Such Court, if subordinate to the High Court, shall forward the application to the High Court. The High Court shall cause the applicant to be enrolled under the provisions of this Act, and, if he be practising in a subordinate Court, shall authorize the District Judge to grant a certificate to the applicant as provided in the Eight, Ninth and Tenth Sections. Applications for enrolment under this Section, when made by any Pleader practising in a Court subordinate to the District Court shall be forwarded to the High Court through the District Judge.

Act not to apply to Advocates, &c., admitted and enrolled by any High Court under Letters Patent.

XLIV. With the exception of Section Thirty-nine this Act shall not apply to Advocates, Vakeels and Attorneys-at-law, admitted and enrolled by any High Court under the Letters Patent by which such Court is constituted, nor to Mookhtars practising in such Court: provided that the High Court shall have power to make rules for the qualification, admission, enrolment, suspension and dismissal of the Mookhtars practising on the appellate side of such Court, and to prescribe penalties for persons practising contrary to such rules or any of them, and from time to time to vary such rules and penalties. Provided also that the High Court may from time to time fix and regulate the fees which shall be payable on all proceedings

on the appellate side of such Court by any party in respect of the fees of his adversary's Vakeel. The rules, penalties and fees so made, prescribed and fixed and every variation thereof shall be published in three consecutive numbers of the Official Gazette.

Advocates and Vakeels enrolled in a High Court may practise in any Court other than a High Court in which they are not enrolled.

XLV. Every person now or hereafter enrolled as an Advocate or Vakeel on the Roll of any High Court under the Letters Patent constituting such Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court in British India other than a High Court on whose Roll he is not enrolled, or in any such Court with the permission of the Court, and in any Revenue Office, subject nevertheless to the rules in force relating to the language in which the Court or Office is to be addressed by Pleaders or Revenue Agents. Provided that no such Vakeel shall be entitled to practise under this Section before a Judge of the High Court, Divisional Court or High Court exercising original jurisdiction.

Attorney of a High Court may plead in any Court not a High Court.

XLVI. Every person now or hereafter enrolled as an Attorney on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court of British India other than a High Court established by Royal Charter and in any Revenue Office.

Commencement and extent of Act.

XLVII. This Act shall take effect in the Territories under the Governments of the Lieutenant-Governors of Bengal and the North-Western Provinces, respectively, on the First day of January, 1866, and may be extended by order of any other Local Government to the Territories subject to such Government. Every such order shall be published in the Official Gazette.

Repeal of inconsistent enactments in Madras, Bombay, the Punjab, &c.

XLVIII. From the date on which this Act shall be extended by the Local Government under the provision contained in the last preceding Section to the Territories subject to such Government, so much of the Regulations in force therein as is in any way inconsistent with, or repugnant to, any of the provisions of this Act, shall cease to have effect in such Territories except as to

the recovery and application of any penalty for any offence which shall have been incurred before such extension of the Act.

FIRST SCHEDULE.

Regulations and Acts and parts of Regulations and Acts repealed so far as they affect the Territories to which this Act extends.

Regulation or Act, and extent of Repeal.	*Regulation or Act, and extent of Repeal.*
BENGAL.	BENGAL.
Regulation XXVII., 1814—So much as has not already been repealed.	Act I. of 1846—The whole.
Regulation VII., 1822—Section 25.	Act XVIII. of 1852—The whole.
Regulation IX., 1825—So much of Clause 9, Section 5, as provides that Section 25 of Regulation VII. of 1822, shall be applicable to cases investigated by Collectors under the Rules of Regulation II. of 1819, or under the provisions of Regulation IX. of 1825.	Act XX. of 1853—The whole.
	Act X. of 1859—So much of Section LXXI., as directs that no fee for any Agent shall be charged as part of the costs of suit in any case under the said Act, and the whole of Section 149.

SECOND SCHEDULE.

Form of Pleader or Mookhtar's Certificate.

Stamp.

Pursuant to "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865," I hereby certify that A. B., Pleader [*or* Mookhtar], whose place [*or* places] of business is [*or* are] at hath this day delivered and left with me a Declaration in writing signed by him, and containing his name and place [*or* places] of business and the Court [*or* Courts] of which he is admitted a Pleader [*or* Mookhtar], together with the year in which he was so admitted; and I hereby further certify that he is duly enrolled in the High Court of Judicature at Fort William in Bengal [*or* the Sudder Court of the North-Western Provinces, *or as the case may be*], and that he is entitled to practise as a

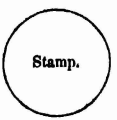
Pleader [*or* Mookhtar] in the District Courts, Subordinate Courts, and Small Cause Courts [*or* the Sudder Court of the North-Western Provinces, and any Subordinate Court, *or* the Sudder Ameens' Courts, *or* the Moonsiffs' Courts, *as the case may be*], and to practise as a Revenue Agent before the Board of Revenue of the Lower Provinces] *or* of the North-Western Provinces, *or as the case may be*] for the period of one year from the date hereof. Given under my hand this day of 186 .

C. D.

Registrar [*or as the case may be*] of the High Court of Judicature at Fort William in Bengal [*or* of the Sudder Court of the North-Western Provinces, *or as the case may be*].

THIRD SCHEDULE.

Form of Revenue Agent's Certificate.



Pursuant to "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865," I hereby certify that A. B., of is entitled to practise as a Revenue Agent before the Board of Revenue of the North-Western Provinces [*or* of the Lower Provinces, *or as the case may be*], and in any Office subordinate thereto in such Provinces for the period of one year from the date hereof. Given under my hand this day of 186 .

C. D.

Secretary to the Board of Revenue of the North-Western Provinces [*or* the Lower Provinces, *or as the case may be*].

By Act IX., 1866, the provisions contained in Sections V. to XII., and XIV., XV., XVIII., XXXVII., XXXIX., and XLI., are extended to Pleaders and Mookhtars practising in the Sudder Court of the North-Western Provinces.

PARSEE INTESTATE SUCCESSION.

ACT No. XXI. OF 1865.

[*Received the assent of the G. G. on the* 10*th April*, 1865.

Recites expediency of defining and amending the Law of Intestate Succession among Parsees.

Of Property.

1—7. As to division on death of Parsee leaving widow and children of both sexes; (2) on death of wife leaving a widower and children; (3) leaving children but no widow; (4) leaving children but no widower; (5) as to share of widow or widower of a deceased child and the children of such child; (6) as to distribution in case deceased leaves a widow or widower, but no lineal descendants but father or mother, or both surviving, or neither father or mother, but relations on the father's side, or no relations on the father's side; or (7) neither lineal descendants nor widow or widower; and as to shares of next of kin in such case.

8. Exempts Parsee succession from operation of the Indian Succession Act, part 3 and part 4, except s. 25, part 5, and s. 43.

Schedules First, Second.

Preamble.

Whereas it is expedient to define and amend the Law relating to Intestate Succession among the Parsees, it is enacted as follows:

Division of property among widow and children of Intestate.

I. Where a Parsee dies leaving a widow and children, the property of which he shall have died intestate shall be divided among the widow and children so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter.

Division of property among widower and children of Intestate.

II. Where a female Parsee dies leaving a widower and children, the property of which she shall have died intestate shall be divided among the widower and such children, so that his share shall be double the share of each of the children.

Division of property amongst the children of male Intestate who leaves no widow.

III. When a Parsee dies leaving children but no widow, the property of which he shall have died intestate shall be divided amongst the children, so that the share of each son shall be four times the share of each daughter.

Division of property amongst the children of female Intestate who leaves no widower.

IV. When a female Parsee dies leaving children but no widower, the property of which she shall have died intestate shall be divided amongst the children in equal shares.

V. If any child of a Parsee Intestate shall have died in his or her lifetime, the widow or widower and issue of such child shall take the share which such child would have taken if living at the Intestate's death in such manner as if such deceased child had died immediately after the Intestate's death.

Division of predeceased child's share of Intestate's property among the widow or widower and issue of such child.

VI. Where a Parsee dies leaving a widow or widower, but without leaving any lineal descendants, his or her father and mother, if both are living, or one of them if the other is dead, shall take one moiety of the property as to which he or she shall have died intestate, and the widow or widower shall take the other moiety. Where both the father and the mother of the Intestate survive him or her, the father's share shall be double the share of the mother. Where neither the father nor the mother of the Intestate survives him or her, the Intestate's relatives on the father's side; in the order specified in the First Schedule hereto annexed, shall take the moiety which the father and the mother would have taken if they had survived the Intestate. The next of kin standing first in the same Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity. If there be no relatives on the father's side, the Intestate's widow or widower shall take the whole.

Division of property when the Intestate leaves a widow or widower, but no lineal descendants.

VII. When a Parsee dies leaving neither lineal descendants nor a widow or widower, his or her next of kin, in the order set forth in the Second Schedule hereto annexed, shall be entitled to succeed to the whole of the property as to which he or she shall have died intestate. The next of kin standing first in the same Schedule shall always be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity.

Division of property when the Intestate leaves neither widow nor widower nor lineal descendants.

Exemption of Parsees from certain parts of the Indian Succession Act, 1865.

VIII. The following portions of the Indian Succession Act, 1865, shall not apply to Parsees (that is to say): the whole of Part III., the whole of Part IV., excepting Section Twenty-five, the whole of Part V., and Section Forty-three.

THE FIRST SCHEDULE.

(1.) Brothers and sisters, and the children or lineal descendants of such of them as shall have predeceased the Intestate.

(2.) Grandfather and grandmother.

(3.) Grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

(4.) Great grandfather and great grandmother.

(5.) Great grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

THE SECOND SCHEDULE.

(1.) Father and mother.

(2.) Brothers and sisters, and the lineal descendants of such of them as shall have predeceased the Intestate.

(3.) Paternal grandfather and paternal grandmother.

(4.) Children of the paternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(5.) Paternal grandfather's father and mother.

(6.) Paternal grandfather's father's children, and the lineal descendants of such of them as shall have predeceased the Intestate.

(7.) Brothers and sisters by the mother's side, and the lineal descendants of such of them as shall have predeceased the Intestate.

(8.) Maternal grandfather and maternal grandmother.

(9.) Children of the maternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(10.) Son's widow, if she have not re-married at or before the death of the Intestate.

(11.) Brother's widow, if she have not re-married at or before the death of the Intestate.

(12.) Paternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(13.) Maternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(14.) Widowers of the Intestate's deceased daughters, if they have not re-married at or before the death of the Intestate.

(15.) Maternal grandfather's father and mother.

(16.) Children of the maternal grandfather's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

(17.) Paternal grandmother's father and mother.

(18.) Children of the paternal grandmother's father, and the lineal descendants of such of them as shall have predeceased the intestate.

LUCKNOW MUNICIPAL COMMITTEE.

ACT No. XXII. OF 1865.

[*Received the assent of the G. G. on the 17th April*, 1865.

1, 2. Repeals Act 18, 1864, s. 21; and (2) empowers Government to extend that Act to any place under the administration of the Government of India.

3. This Act to be taken as part of Act 18, 1864.

Whereas it is expedient to amend Act No. XVIII. of 1864 (*to provide for the appointment of a Municipal Committee for the City of Lucknow*), it is enacted as follows:

Preamble.

I. Section Twenty-one of the said Act No. XVIII. of 1864 is hereby repealed, and the following Section shall be read in lieu thereof.

Act XVIII. of 1864, Section 21, repealed.

II. It shall be lawful for the Governor General of India in Council, by Order published in the Gazette of India to extend the said Act to any place under the immediate administration of the

Power to Governor General in Council to extend Act XVIII. of 1864.

Government of India; and when so extended, it shall have effect in such place as if the name of such place were substituted throughout the said Act for the name "Lucknow." The Governor General of India in Council, shall by such order declare how many persons shall be members, and what and how many persons shall be *ex-officio* members of the Committee to be constituted in the place to which the said Act shall have been so extended, provided that the number of such *ex-officio* members shall not be more than one-third of the number of all the members of such Committee.

This Act to be construed with Act XVIII. of 1864.

III. This Act shall be read and taken as part of the said Act No. XVIII. of 1864.

PUNJAB CHIEF COURT ACT, 1865.

ACT NO. XXIII. OF 1865.

[*Received the assent of the G. G. on the 17th April*, 1865.

Recites expediency of amending the constitution of the Court of the Judicial Commissioner of the Punjab, &c.

1. Interprets the words Punjab, Lieutenant-Governor, Chief Court, Judge, Registrar, Magistrate, Barrister, Section, and as to construction of words of number, and words of gender.

2—5. Names the Court the Chief Court of the Punjab, and directs that it shall consist of two or more Judges, one of whom is to be a Barrister to be appointed by the G. G.; and (2) to rank according to seniority of appointment; and (3) hold their offices during pleasure; and to take specified oath on assuming their office.

6—8. Authorizes the Judges to appoint a Registrar, &c., with duties to be defined by rule, &c.; and (7) to appoint a Deputy Registrar and necessary Clerks; and (8) all Officers and Clerks to be liable to dismissal by the Court.

9. Directs that this Court shall have a seal with specified inscription.

10, 11. Defines who may appear and plead in the Court, *e. g.*, Government Solicitor for Government, suitors for themselves and co-suitors, Advocates, Vakeels, or Attornies of the High Court or Sudder Court of the North-Western Provinces, but no person to appear as Pleader without being generally or specially licensed, &c.; and (11) these licenses may be revoked by the Court.

12. Fees of Pleaders (but not of Advocates) to be subject to Rules, &c.

13. Constitutes the Chief Court one sole Court of Appeal from all the Civil and Criminal Courts of the Punjab in matters appealable to the High Court save as respects specified classes of suits while a settlement of Land Revenue is going on.

14—17. Empowers the Chief Court to withdraw suits from Subordinate Courts; and (15) to order transfer of suits or appeals from one Court to another; and (16) to call for records of Small Cause Courts; and (17) directs that all special appeals from all grades of Courts shall be to Chief Court only.

18, 19. Directs that Chief Court Procedure (save as otherwise specially enacted) be regulated by Punjab Rules; and (19) existing rules of law or equity and good conscience to be continued until altered.

20—22. Empowers the Chief Court to try European British subjects, and commitments of such to be for trial by the Chief Court; such trial to be at place ordered by Chief Court; and (21) the proceedings and commitments shall be sent by the Committing Justices to the Registrar of the High Court; and (22) empowers the Chief Court to amend, &c., the charge.

23. Entitles the accused to have a copy of the depositions.

24, 25. Accused to be tried on charge recorded; and (25) if such charge appears to be clearly unsustainable, Judge may record a *nolle prosequi*, the effect of which shall be an acquittal if for three years afterwards no fresh charge is preferred.

26. Directs that the Court shall ordinarily hold its sittings at the seat of Government and at other places as convenience may require with the approval of Government.

27—29. Directs that commitments of European British subjects, &c., for intermediate custody shall be to the nearest Criminal Gaol until the Chief Court has ordered the place for trial, after which the further custody is to depend on the place of trial; and (28) empowers the Chief Court to issue general directions as to places for trial and commitments within specified districts, &c.; and (29) all trials upon commitments of European British subjects shall be by Jury.

30. Directs the summoning of jurors by the Court of Session when notice has been given of where the Chief Court Sessions are to be held.

31, 32. Entitles European British subjects to require that the majority of the Jury shall be Europeans or Americans, or both; and (32) directs the Jury to be 12, and requires a majority of nine for a verdict of guilty.

33. Directs that sentences of death in the Chief Court shall not require confirmation, and dispenses with explanation of reasons for sentences to other than death on offences capitally punishable.

34. Dispenses with special form for passing sentence or recording findings and sentence.

35, 36. Authorizes the Judge to reserve for opinion of the Court any question of law or admissibility of evidence arising at a Criminal trial; and if no question be reserved shall forward prisoner with a warrant in pursuance of sentence, &c., or if question be reserved shall remand him to gaol, &c.; to await final decision, &c.; and (36) save as otherwise directed in the Civil Criminal Court Procedure shall be the Code of Criminal Procedure, &c.

37—41. Makes European British subjects amenable to law for offences committed in Foreign State, &c.; and (38) may be ordered to be tried

in Chief Court; and (39) the same as to Officers of Government; and (40) prescribes the form of commitment in all such cases; and (41) makes the order of Government sufficient warrant for the trial, &c.

42. Makes two Judges necessary to reverse or modify any sentence or decree of Civil or Criminal Court.

43. Empowers the Chief Court to make rules for the exercise by one or more Judges of the original or appellate jurisdiction.

44. Gives the Chief Court superintendence over all Courts subject to its appellate jurisdiction, and to call for return and make general rules, &c.

45. Transfers to Chief Court all proceedings pending in Court of Judicial Commissioner, &c.

46. Provides the manner in which differences shall be settled if only two Judges and they differ.

47, 48. Directs that cases referred under this Act to the High Court shall be heard by not less than three Judges, &c.; and (48) provides that the parties to such cases may appear, plead, and act in person, or by an Advocate or Vakeel; and as to mode of returning the opinion of the High Court.

49, 50. Directs the Chief Court to keep Registers, Books, Accounts, &c.; and (50) establishes equality of competency in every Judge, except as excepted by the Act or by Rules.

51. Saves Sections 10, 11, and 12 of this Act when the Pleaders, Mookhtars, and Agents' Act, 1865, shall be extended to the Punjab.

52. Names the Act, "The Punjab Chief Court Act, 1865."

53. The Act to come into operation on the day to be fixed by the Governor General in Council.

Preamble.

Whereas it is expedient to amend the constitution of the Court of the Judicial Commissioner of the Punjab and its Dependencies, and to invest the Judges of the Court constituted under this Act with an original jurisdiction for the trial of certain Civil and Criminal cases, it is enacted as follows:

Interpretation of terms.

I. In this Act, unless there be something repugnant in the subject or context—

"Punjab."

"Punjab" means the Territories for the time being under the Government of the Lieutenant-Governor of the Punjab and its Dependencies.

"Lieutenant-Governor."

"Lieutenant-Governor" means the Lieutenant-Governor for the time being of the Punjab.

"Chief Court."

"Chief Court" means the Chief Court of the Punjab constituted under this Act.

"Judge," "Registrar," and other words denoting any particular Officer respectively include any person for the time being authorized to act as such Judge, Registrar, or other Officer.

"Judge," "Registrar."

"Magistrate" denotes any person exercising any of the powers of a Magistrate as defined in the Code of Criminal Procedure.

"Magistrate."

"Barrister" includes Barristers of England or Ireland, and Members of the Faculty of Advocates in Scotland.

"Barrister."

"Section" denotes a Section of this Act.

"Section."

Words in the singular include the plural: words in the plural include the singular.

Number.

Words importing the musculine gender include females.

Gender.

II. The Court constituted under this Act shall be styled the Chief Court of the Punjab, and shall consist of two or more Judges, who shall be appointed by the Governor General of India in Council, and of whom one at least shall always be a Barrister of not less than five years' standing: provided that the person who at the time of the constitution of the Chief Court shall be the Judicial Commissioner of the Punjab, shall become a Judge of such Court without further appointment for that purpose.

Constitution of Chief Court.

III. The Judges of the Chief Court shall have rank and precedence in the Court according to the seniority of their appointments as such Judges.

Precedence of Judges of Chief Court.

IV. The Judges of the Chief Court shall hold their office during the pleasure of the Governor General of India in Council.

Tenure of Office of Judges of Chief Court.

V. Previously to entering on the execution of the duties of his Office, every Judge appointed under this Act shall make or subscribe the following declaration before the Lieutenant-Governor or such authority or person as he may commission to receive the same:—

Declaration to be made by persons appointed Judges of Chief Court.

"I, A. B., appointed Judge of the Chief Court of the Punjab, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge, and judgment."

Appointment of Registrar.

VI. The Judges of the Chief Court with the sanction of the Lieutenant-Governor may, from time to time, appoint a person to be the Registrar of the said Court. The Registrar shall be the principal Ministerial Officer of the Court, and shall have such powers, and perform such duties, as shall be given and assigned to him by the Court by any rule duly made by the Court under the Forty-fourth Section.

Appointment and removal of Ministerial Officers.

VII. The Judges of the Chief Court may, from time to time, and subject to any rules and restrictions which may be prescribed by the Governor General of India in Council, appoint a Deputy Registrar and such and so many Clerks and other Ministerial Officers as shall be found necessary for the administration of justice by such Court, and the due execution of the powers and authorities given to it by this Act.

Dismissal of Officers of Court.

VIII. Every Officer appointed under either of the last two preceding Sections shall be liable to dismissal by order of the Chief Court: provided that neither the Registrar nor Deputy Registrar shall be removed from office without the sanction of the Lieutenant-Governor.

Seal of Chief Court.

IX. The Chief Court shall have, and use as occasion may require, a Seal, with this inscription "The Seal of the Chief Court of the Punjab," to be made under the directions of the Lieutenant-Governor; and all summonses, decrees, and other process issuing out of the Court shall be stamped with such Seal, and signed by a Judge or the Registrar or Deputy Registrar of the Court.

Processes to be sealed with Court Seal, and signed by Judge or Registrar.

Agent for Secretary of State, suitors and Advocates, &c., of High Courts, may appear and plead.

X. Any person duly authorized by the Secretary of State for India in Council to appear, plead or act on his behalf; (2) any suitor appearing, pleading or acting on his own behalf or on behalf of a co-suitor; (3) any person who, for the time being, is an Advocate, Vakeel or Attorney-at-law of any of the High Courts of Judicature in India or of the

Sudder Court of the North-Western Provinces,—shall be permitted to appear and act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever.

Licensing of Pleaders.

Save as aforesaid, no person shall be permitted to appear or act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever, unless such person shall have been previously licensed by the Court to act for the suitors of such Court generally, or specially for the particular occasion. It shall be lawful for the Judges to make rules for the qualifications and admission of proper persons to act as Pleaders in the Court.

Rules regarding their qualifications and admission.

XI. The Chief Court may for sufficient reason revoke any license which the Court shall at any time grant to any person to act generally or specially as a Pleader under this Act, and may for sufficient reason suspend any person whatsoever from appearing or acting as a Pleader in any suit, or touching any matter.

Power to suspend or revoke Pleader's license.

XII. The fees to be received by any Pleader, other than an an Advocate of an High Court, shall be subject to the order and control of the Court, and no fee shall be recoverable by any such Pleader except such fees shall be allowed under the Forty-fourth Section.

Fees of Pleaders to be subject to control.

XIII. The Chief Court shall be the highest Court of Appeal from the Civil and Criminal Courts in the Punjab, and shall (subject to the provision hereinafter contained) be the only Court exercising appellate jurisdiction in such cases (whether relating to the title or succession to land or to the possession or any right in respect of land or otherwise) as are subject to appeal to the highest Civil and Criminal Court in the Punjab, by virtue of any law or practice now in force, or as shall become subject to appeal to the Chief Court by virtue of any law hereafter made by the Governor General of India in Council. Provided that when a settlement of land Revenue shall be in progress, and the Local Government, under Act No. XIX. of 1865 (*to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies*), shall have

The Chief Court to be the ultimate Court of Appeal from the Civil and Criminal Courts in the Punjab.

invested the Financial Commissioner of the Punjab with the power of a Court of final appeal in any class of suits regarding land, or the rent revenue or produce of land, the jurisdiction of the Chief Court shall, so far as regards such class of suits, be barred during the continuance of the power with which such Commissioner shall have been so invested.

Extraordinary original Civil jurisdiction.

XIV. The Chief Court may remove and try and determine as a Court of original jurisdiction any suit being or falling within the jurisdiction of any Court subject to its superintendence when the Chief Court shall think proper to do so, either on the agreement of the parties to that effect, or for purposes of justice.

Power to transfer suits and appeals from one subordinate Court to another.

XV. The Chief Court may withdraw any suit or appeal from any Court subject to its superintendence other than a Court of Small Causes or a Court of a Cantonment Magistrate, and refer such suit or appeal for trial to any other subordinate Court competent in respect of the value or amount of the suit to try the same.

Power to call for record of cases decided by subordinate Courts.

XVI. The Chief Court may call for the record of any case decided by any Court of Small Causes, or on appeal by any Court subject to its superintendence in which no appeal shall lie to the Chief Court, if such Court of Small Causes, or subordinate Court in hearing the appeal shall appear to have exercised a jurisdiction not vested in it by law.

Special appeal from Courts in Punjab to lie only to Chief Court.

XVII. All special appeals preferred after the date on which the Chief Court is established, from the decrees of Civil Courts of whatever grade in the Punjab, shall lie to and shall be heard by the Chief Court only, and not by any other Court.

Regulation of proceedings in Civil suits.

XVIII. Save as in this Act is otherwise provided, the proceedings in the Chief Court in Civil suits of every description between party and party shall be regulated by the rules relating to Civil Procedure for the time being in force in the Punjab.

In exercise of its Civil jurisdiction, law of the Local Courts to apply.

XIX. In the exercise of its Civil Jurisdiction, Original as well as Appellate, such rules of law or equity and good conscience shall (until otherwise

provided) be applied by the Chief Court in each case coming before it, as would have been applicable to such case by any Local Court having jurisdiction therein.

Power to try European British subjects.

XX. The Chief Court shall have power, as a Court of Original Jurisdiction, to try European British subjects committed to it for trial; and from the date on which this Act shall come into operation, no commitment of a European British subject for trial by a High Court of Judicature, shall be made by any Court or Officer in the Punjab; but every commitment which, if this Act had not been passed, could have been made to a High Court, shall be made to the Chief Court. Whenever any such European British subject shall be committed or bailed for trial before the Chief Court, the Chief Court shall direct at what place within the limits of its jurisdiction the trial shall be held.

Charge to be delivered to Registrar with commitment of European British subject.

XXI. Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any European British subject for trial before the Chief Court, shall, together with the record of the preliminary enquiry and all recognizances and other documents and any weapon or article of property connected with the case, deliver to the Registrar of the Chief Court a written instrument of charge signed by him, stating for what offence such European British subject is so committed or held to bail.

Chief Court to consider, and, if it will, to amend, alter, or add to the charge.

Charge with amendments, alterations, or additions (if any) to be recorded.

XXII. The Chief Court shall consider the charge, and may, if it appear necessary or expedient so to do, amend, alter, or add to the same. The charge, with such amendments, alterations, or additions, if any, shall be recorded in the Chief Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations, or additions (if any) gratis.

Accused to have copies of examinations.

XXIII. The person charged shall also, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Effect of charge.

XXIV. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the Chief Court in due course of law, and (subject to the provisions contained in the Code of Criminal Procedure as to the amendment and alteration of charges, and subject also to the provisions of the next following Section) shall be tried upon the charges so recorded.

Chief Court may order an unsustainable charge not to be proceeded with.

XXV. When any such charge shall have been recorded in the Chief Court as aforesaid, and shall at any time before the commencement of the trial of the person charged appear to the Chief Court to be clearly unsustainable, an entry to that effect may be made on the charge by a Judge of the Court. Such entry shall have the effect of staying proceedings upon the charge, but shall not operate as an acquittal of the person charged, unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

Effect of such order.

Places of holding sittings.

XXVI. The Chief Court shall ordinarily hold its sittings at the seat of Government of the Punjab: but it may, from time to time, with the approval of the Lieutenant-Governor, hold sittings at such other places in the Punjab as shall seem convenient. Due notice shall be given beforehand in the Official Gazette of all sittings intended to be held for the trial of cases in the exercise of the original Criminal jurisdiction of the Court.

Procedure pending directions of Chief Court as to place of trial of European British subject.

XXVII. Pending the directions of the Chief Court as to the place of trial, every such European British subject as is referred to in the Twenty-first Section shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal goal in which he can be most conveniently confined. If the trial shall be directed to be held at the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the gaol at such place.

If the Chief Court shall direct that the person charged be tried elsewhere than at its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial at the place directed, or shall, if necessary, cause him to be removed to the Criminal gaol of or nearest to the place at which he is directed to be tried; and the Officer in charge of such Criminal gaol shall keep him in safe custody until discharged in due course of law.

Chief Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular Goal.

XXVIII. It shall be lawful for the Chief Court to direct that all European British subjects committed or bailed for trial within certain specified Districts, or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named, and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular gaol, being one of the gaols appointed by the Government for the reception of such prisoners.

Trials under Section 20 to be by Jury.

XXIX. All trials under the Twentieth Section shall be by Jury.

Summoning of Jurors to serve on trials.

XXX. Whenever the Chief Court shall have given notice of its intention to hold sittings at any place (whether at the seat of Government of the Punjab or otherwise) for the exercise of its original Criminal jurisdiction, the Court of Session at such place shall take and cause to be taken the measures prescribed by Sections Three hundred and thirty-six to Three hundred and forty, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and, in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military Service resident within ten miles of its place of sitting as the Court shall consider to be necessary to make up the Juries required for the trial of European British subjects charged with offences before the Chief Court as aforesaid. All Commissioned and Non-Commissioned

Military men not exempt.

Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure; but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty, or for any other special Military reason. The Juries for the trial of European British subjects as aforesaid shall be formed in the manner required by the Code of Criminal Procedure, and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure, and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Jury for trial of European British subject.

XXXI. If any European British subject charged as aforesaid shall so require before the Jury shall be empannelled, the majority of the Jurors shall consist of Europeans or Americans, or both Europeans and Americans.

Number of Jury requisite to verdict of guilty.

XXXII. On every trial of an European British subject under this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by Chief Court.

XXXIII. So much of the Three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by the Chief Court passed in the exercise of its original Criminal jurisdiction.

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of Court.

XXXIV. So much of the Twenty-sixth Chapter of the Code of Criminal Procedure, as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form,

shall not apply to judgments, sentences, or findings in trials before the Chief Court acting in the exercise of its original Criminal jurisdiction; but the Chief Court shall pass judgment, and shall record or cause to be recorded the sentence and finding in such form as it shall think proper.

Power to single Judge to reserve for Chief Court any question of law or evidence.

XXXV. When any person has been convicted of an offence before a Judge of the Chief Court acting in the exercise of its original Criminal jurisdiction, the Judge, if he think proper, may reserve for the decision of a Court, consisting of such Judge and one or more other Judge or Judges of the Chief Court, any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner, with a copy of his sentence, and a warrant for the execution of the same, to the Magistrate or other Officer in charge of the gaol of the District or place in which the trial was held, and, on the receipt of the warrant, such Magistrate or other Officer shall proceed as provided in the Three hundred and eighty-fifth Section of the Code of Criminal Procedure. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision thereon, be remanded to gaol. If the decision on the question be adverse to the person convicted, the Court shall send a copy of its sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the gaol to which the prisoner shall have been remanded, and such Magistrate or other Officer shall proceed as provided in the same Section.

Procedure where no such question reserved.

Save as aforesaid, Criminal Procedure Code to apply to Juries, trials, sentences, and execution.

XXXVI. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before the Chief Court acting in the exercise of its original Criminal jurisdiction, and to trials before such Court, and to sentences by such Court, and to the carrying into execution of such sentences.

British subjects to be amenable for offences committed in foreign territory.

XXXVII. Every European British subject apprehended within the Punjab, or delivered into the custody of a Magistrate within the Punjab wherever apprehended, shall be amenable to

the law for any offence committed by him within the territory of any Foreign Prince or State, and may be bailed or committed for trial as hereinafter provided on the like evidence as would warrant his being bailed or committed for trial for the same offence if it had been committed in the Punjab.

Committing Magistrate to report to the Lieutenant-Governor.

XXXVIII. The committing Magistrate immediately and before the trial shall report the case to the Lieutenant-Governor, and shall obey the orders which he shall receive thereon, and the Lieutenant-Governor may order the trial to be had before the Chief Court.

If the offence is committed where there is a competent Court, Lieutenant-Governor may take steps to have trial there.

XXXIX. When the offence is charged to have been committed in the territory of any Foreign Prince or State, administered by Officers acting under the authority of the Government of India, in which territory a Court competent to try the person charged is established by authority of the Governor General of India in Council, the Lieutenant-Governor may order such person to be conveyed in custody out of the Punjab for the purpose of delivering him up for trial before such Court.

Form of warrant of commitment and of bail-bond.

XL. When the person charged is committed to custody, the form of the warrant shall specify the commitment to be until the orders of the Lieutenant-Governor can be received and acted on. When he is bailed, the form of the bail-bond shall be in the first instance to appear before the Magistrate on a certain day assigned, allowing reasonable time for the receipt of the orders of the Lieutenant-Governor, and on such subsequent days as the Magistrate shall, from time to time, require. If the Lieutenant-Governor shall order the person charged to be tried in the Chief Court, the Magistrate may cause the bail-bond to be renewed in the usual form to appear and take his trial in such Court.

Order of Lieutenant-Governor to be full authority.

XLI. In either case the special order of the Lieutenant-Governor shall be deemed full authority either for the trial of the person charged within the Punjab, or for conveying him in custody out of the Punjab as aforesaid.

XLII. No decree of any Civil Court shall be reversed or modified on appeal, and no sentence of any Criminal Court shall be reversed or modified on appeal or revision, save by the order of not less than two Judges of the Chief Court.

Two Judges at least necessary to reverse or modify sentence or decrees of Sessions or Civil Judges.

XLIII. Save as herein otherwise provided, the Chief Court may by its own rules provide for the exercise, by one or more Judges, of the original and appellate jurisdiction, vested in such Court, in such manner as may appear to such Court to be convenient for the due administration of Justice.

Chief Court may provide for exercise of the Court's jurisdiction by one or more of its Judges.

XLIV. The Chief Court shall have superintendence over all Courts which may be subject to its appellate jurisdiction, and shall have power to call for returns, to make and issue general rules for regulating the practice and proceedings of the Chief Court and of such subordinate Courts, to give and assign to the Ministerial Officers of the said Chief Court and subordinate Courts respectively such powers and duties as may seem fit, to frame and prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and also for keeping all books, entries, and accounts to be kept by the Officers, and to settle Tables of Fees to be allowed to Pleaders, and, from time to time, to alter any such rule or form or table; and the rules so made, and the forms so framed, and the tables so settled, shall be published in the Official Gazette, and, after being so published, shall be used and observed in the Chief Court: provided that such general rules and forms and tables be not inconsistent with the provisions of this Act or any law in force, and shall, before they are issued, have received the sanction of the Lieutenant-Governor.

Chief Court to superintend subordinate Courts, and to frame rules of practice for itself and such Courts.

XLV. The Chief Court shall have jurisdiction in all proceedings pending in the Court of the Judicial Commissioner of the Punjab at the time of the constitution of the Chief Court; and all previous proceedings of the Court of the said Commissioner shall be dealt with as if the same had been had in the Chief Court.

Provisions as to proceedings pending in Judicial Commissioner's Court.

XLVI. If the Chief Court shall consist of two Judges only, and if in any case heard by such Judges sitting together, there shall be a difference of opinion between them, the following course shall be pursued, that is to say:—

Procedure in case of difference of opinion between Judges when Court consists of only two.

(1*st.*)—If the case be heard in appeal, and the difference of opinion shall be on any question of fact in the finding of the Lower Court, the finding shall be upheld.

1st.—On appeal on a question of fact.

(2*nd.*)—If the difference of opinion shall be on a point of law or of usage having the force of law, the ruling of the Lower Court shall in such case also be upheld, unless one of the Judges shall be of opinion that the point is one which ought to be referred to the High Court of Judicature at Calcutta, in which case the Judges shall state the point as to which they differ, and forward such statement, with their own opinions respectively, to such High Court. The Chief Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made until the receipt of the order of the High Court.

2nd.—On appeal on a question of law.

(3*rd.*)—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion shall be on a point of law or usage having the force of law, the Judges shall state the point on which they differ, and proceed as last hereinbefore provided. The same rule shall be observed when a difference of opinion may arise between two Judges of the Court upon a point of law, reserved under the Thirty-fifth Section.

3rd.—In exercise of original jurisdiction on a question of law.

(4*th.*)—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion be on a question of fact, the opinion of the Senior Judge shall prevail, and he shall pronounce his decision as the decision of the Court.

4th.—In exercise of original jurisdiction on a question of fact.

XLVII. Cases referred under this Act for the opinion of the High Court of Judicature at Calcutta, shall be heard by not less than three Judges

Hearing and decision of referred cases.

of that Court, and shall be determined according to the opinion of the majority of such Judges.

Parties may appear in person, or by Advocate or Vakeel.

XLVIII. The parties to such cases may appear, plead, and act in the said High Court in person, or by an Advocate or Vakeel of such High Court; and the High Court, when it has heard and considered the case, shall transmit a copy of its opinion under the seal of the Court and the signature of the proper Officer of the Court, to the Judges of the Chief Court. Costs, if any, consequent on the reference of a case for the opinion of the High Court, under the Forty-sixth Section, shall be costs in the suit.

Transmission of judgment of High Court and proceeding thereupon.

Costs of reference to High Court.

Registers, books, accounts, and statements to be kept and furnished by Chief Court.

XLIX. The Chief Court shall keep such registers, books, and accounts, and submit to the Lieutenant-Governor such statements of the work done in the Court as may be required by him. The Chief Court shall also comply with such requisitions as may be made by the Governor General of India in Council, or by the Lieutenant-Governor for certified copies of or extracts from the records of the Court.

Copies of records to be furnished.

Chief Court's functions exerciseable by single Judge.

L. Save as is in this Act otherwise expressly declared, any function which is hereby directed to be performed by the Chief Court, may be performed by any Judge or Judges thereof appointed in that behalf by any rule made under the Forty-fourth Section.

Sections 10, 11, and 12 not to be affected on extension to Punjab of Act XX. of 1865.

LI. Whenever the Lieutenant-Governor of the Punjab shall, under the authority vested in him by Section Forty-seven of the Pleaders, Mookhtars, and Revenue Agents' Act, 1865, extend the provisions of the said Act to the Territories under his Government, nothing in the said Act shall affect the provisions of Sections Ten, Eleven and Twelve of this Act.

Short title.

LII. This Act may be cited as "The Punjab Chief Court Act, 1865."

Commencement of Act.

LIII. This Act shall come into operation on such day as the Governor General of India in Council shall fix, by a notification published in the Gazette of India.

WARRANTS OF ATTORNEY AND COGNOVITS.

ACT No. XXIV. OF 1865.

[*Received the assent of the G. G. on the 14th July*, 1865.

Recites the expediency of giving effect to Warrants of Attorney and Cognovits filed and executed since July 1st, 1862, and of making valid judgments signed under such, and executions thereon up to passing this Act.

1. Authorizes judgment being signed under such Warrants and Cognovits subject to rules, &c., respecting such securities as were in force in Supreme Court.

2. Directs that judgments on such Warrants and Cognovits shall be deemed decrees of the High Court, and be executed accordingly.

3. Makes valid all judgments signed on such Warrants and Cognovits in the High Court, and all executions sued out and other proceedings thereon, and prohibits proceedings against any person for anything done under such judgment or execution, which might have been done then if Supreme Court were continued.

4. Reserves to High Court same power as Supreme Court would have had to set aside or annul such Warrant or Cognovit, &c.

5. Makes void Warrants and Cognovits filed after passing of this Act.

6. Allows extension of Act to Bombay by the Local Government.

Preamble.

Whereas it is expedient to give effect to Warrants of Attorney to confess judgment in suits in the High Court of Judicature at Fort William in Bengal which were executed on the First day of July, 1862, being the date of the establishment of the said Court, or on the date of the passing of this Act, or on any intermediate day, and to Cognovits executed or given on any of the days above mentioned by any defendant in any suit pending in the same Court; and whereas it is also expedient to render valid judgments which have been signed on such Warrants of Attorney and Cognovits respectively, and executions and subsequent proceedings which have been sued out and taken thereon, it is enacted as follows:

Judgment may be signed on Warrants and Cognovits executed or given between 1st July 1862, and the date of passing of this Act, or on either of these days.

I. Judgment may be signed in the said High Court upon every Warrant of Attorney and *Cognovit actionem* executed or given in or relating to proceedings in the same Court on the said First day of July, 1862, or on the date of the passing of this Act, or on any intermediate day, in the same manner as judgments were signed in the late Supreme Court of Judicature at Fort William in Bengal upon

Warrants of Attorney and Cognovits executed or given in or relating to proceedings in such Court; and all such Warrants of Attorney and Cognovits shall be subject, as nearly as circumstances permit, to all rules of Court and provisions of Acts of Parliament which were in force at the time when the said High Court was established, and to which Warrants of Attorney and Cognovits given in or relating to proceedings in the said Supreme Court were then subject.

Judgments on such Warrants or Cognovits to be deemed decrees of the High Court.

II. A judgment entered up or signed on any Warrant of Attorney or Cognovit to which this Act extends shall be deemed a decree of the said High Court, and may be executed and enforced accordingly.

Judgments on such Warrants or Cognovits to be as valid as if signed in the late Supreme Court.

III. Any judgment which has been signed on any such Warrant or Cognovit in the said High Court shall be deemed to be and always to have been as valid and effectual as if the same had been signed in the said Supreme Court upon a Warrant of Attorney or Cognovit given in that Court; and every writ of execution which has been sued out thereon, and every execution of any such writ, and all proceedings taken thereon, shall for all purposes be deemed and taken to be and always to have been as valid and effectual as if the same had been sued out of the said Supreme Court upon a judgment signed in the same Court upon a Warrant of Attorney or Cognovit given in or relating to proceedings in that Court: and no suit or other proceeding shall be commenced, prosecuted or carried on against any person or anything done under or in pursuance of such judgment or execution which could not have been maintained if such judgment had been entered up in the said Supreme Court upon a Warrant of Attorney or Cognovit executed or given in or relating to proceedings in that Court, and the execution had been issued on such judgment.

Power to High Court to set aside or annul Warrants and Cognovits.

IV. The said High Court shall have the same powers to set aside or annul any such Warrant or Cognovit and any judgment signed thereon and any execution issued upon such judgment, as the said Supreme Court exercised with respect to Warrants of

Attorney or Cognovits executed or given in or relating to proceedings in that Court and to judgments entered up thereon and to executions upon such judgments.

Warrants and Cognovits executed and given after the passing of this Act to be void.

V. Every Warrant of Attorney and Cognovit executed or given after the passing of this Act, in or relating to proceedings in the said High Court, or in any other High Court of Judicature in British India, and every judgment signed thereon, and all executions issued upon such judgments, shall be deemed null and void.

This Act may be extended to the High Court at Bombay.

VI. This Act may be extended, *mutatis mutandis*, to the High Court of Judicature at Bombay, by an order of the Governor in Council to be published in the Local Government Gazette.

THE INDIAN CUSTOMS DUTIES ACT OF 1865.

ACT No. XXV. OF 1865.

[*Received the assent of the G. G. on the 14th July*, 1865.

1. Repeals Act 17, 1865.

2. In lieu of Customs Duties under Acts specified and Act 17, 1865, substitutes the duties specified in Schedules A and B. But saves from operation of this Act duties on Salt and Opium and Free Ports and the Consolidated Customs Act.

3. Gives retrospective effect to this Act from the 29th March, as respects duty on export of saltpetre.

4. Entitles this Act, "The Indian Customs Duties Act of 1865." Schedule A. Import Duties. Schedule B. Export Duties.

Preamble.

Whereas it is expedient to amend the Law relating to Customs Duties, it is enacted as follows:

Act XVII. of 1865 repealed.

I. Act XVII. of 1865 is repealed.

Customs Duties to be levied as prescribed in the Schedules annexed to this Act.

II. In lieu of the Customs Duties authorized to be charged in Act VII. of 1859 (*to alter the duties of Customs on goods imported or exported by Sea*), Act XXIII. of 1859 (*to alter the rates of duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively*), Act X. of 1860 (*to amend Act VII. of* 1859, *to alter*

the duties of Customs on goods imported or exported by Sea), Act XI. of 1862 (*to amend Act X. of* 1860 *to amend Act VII. of* 1859), Act XXIII. of 1862 (*to amend Act XI. of* 1862), and Act XXIII. of 1864 (*to amend the law relating to the Customs Duties on goods imported by Sea*), there shall be levied and collected the duties specified in the two Schedules A and B annexed to this Act. Provided always that nothing herein contained shall be deemed to alter the existing duties upon Salt and Opium, or to authorize the levy of duties in any free Port, or to affect the provisions of Act VI. of 1848 (*for equalizing the duties on goods imported and exported on Foreign and British bottoms, and for abolishing duties on goods carried from Port to Port in the Territories subject to the Government of the East India Company*), or to affect the provisions of the Consolidated Customs Act.

III. Obsolete.

SCHEDULES A. and B. Repealed by Act XVIII., 1866.

The latest Act is Act XVII., 1867, "The Indian Customs Duties Act, 1867," which contains Import and Export Duties.

ARTICLES OF WAR FOR NATIVE ARMY.

ACT NO. XXVI. OF 1865.

[*Received the assent of the G. G. on the 3rd August*, 1865.

Recites expediency of amending Act 29, 1861, Art. 83.

1. Repeals the said Article. Substitutes new Article for it respecting Minor Punishments.

2. Act to be read as part of Act 29, 1861.

Whereas it is expedient to amend the 83rd Article of War enacted in the said Act XXIX. of 1861, it is enacted as follows:

Preamble.

I. The Article of War numbered 83 in the said Act XXIX. of 1861, is hereby repealed, and in lieu thereof, the following Article of War shall be read and taken as Article 83 of the said Act XXIX. of 1861:—

Repeal of Articl. 83.

ARTICLE 83.

Punishment for light offences.

The Commander-in-Chief in India shall, under the authority of the Governor General in Council, prescribe the minor punishments to which Non-Commissioned Officers and Soldiers shall, for light offences, be liable, without the intervention of a Court Martial; and shall specify the Officer or Officers by whom such minor punishment and the extent thereof may be awarded. But no such minor punishment shall be awarded by a Court Martial.

Construction.

II. This Act shall be read and taken as part of the said Act XXIX. of 1861.

PUNJAB CHIEF COURT OF JUDICATURE.

ACT No. XXVII. OF 1865.

[*Received the assent of the G. G. on the 17th August*, 1865.

Recites expediency of making provisions for trial of Appeals heard before Financial Commissioner prior to passing of Act 23, 1865.

1, 2. Authorizes the Government of the Punjab to invest the Financial Commissioner with the power of Judicial Commissioner for the purpose of trying generally the appeals described and all such appeals whether filed before or after May 1st, 1865.

Preamble.

Whereas it is necessary, pending the establishment of the Chief Court in the Punjab under Act XXIII. of 1865, to make special provision for the decision of such appeals as previously to the passing of Act XIX. of 1865, were heard by the Financial Commissioner, it is enacted as follows:

Punjab Government may invest Financial Commissioner with powers of Judicial Commissioner for trial of appeals.

I. Until such time as Act XXIII. of 1865, shall come into operation, the Government of the Punjab may invest the Financial Commissioner of the Punjab with the powers of the Judicial Commissioner for the purpose of trying generally appeals in respect of suits regarding land, or the rent, revenue, or produce of land, anything in Act XIX. of 1865 to the contrary notwithstanding.

Operation of Act.

II. The provisions of this Act shall apply to all such appeals as aforesaid, whether filed before or after the First of May, 1865.

BOMBAY INSOLVENT TRADERS' ACT.

ACT NO. XXVIII. OF 1865.

[*Received the assent of the G. G. on the 27th Sept.*, 1865.

Recites expediency of providing for the more speedy liquidation of Insolvent Traders in Bombay.

1. Interprets the words Trader, Court, words of Number and Gender.

2, 3. Estate of Trader being or declaring himself to be unable to pay his debts, may be wound up by Trustees under order of Court; and (2, 3) as to what Traders shall be deemed unable to pay their debts

4, 5. Empowers any meeting of Creditors of a Trader who is or has declared himself unable to pay his debts, to resolve that his Estate ought to be wound up under this Act, and to nominate Trustees for the purpose; and (5) gives regulations for such meeting, and directs what advertisements shall be given.

6. Directs mode of applying to Court for an Order, and the conditions on which it shall be made, subject to right of the Trader to apply to set it aside.

7, 8. Upon Order being made all the Estate, &c., of Trader to vest in the Trustees appointed by the Court, and vesting effect to relate back to time of filing the Resolutions in Court, &c.; and (8) from date of vesting order, stays all proceedings and executions against Trader, except process to prevent departure or removal of effects out of the jurisdiction.

9, 10. Define the powers of the Trustees.

11—14. Directs the Trustees to report certain specified misconduct of the Insolvent to the Court, which is empowered, upon proof of the alleged offence, to sentence the offender to rigorous or simple imprisonment; and (12) directs the Trustees, on discovery of Trader having contracted debts fraudulently, or by means of breach of trust, or false pretences, or without having any reasonable expectation of paying them, &c., to report the same to the Court, which, on proof of the alleged offence, may sentence the offender to not exceeding two years' imprisonment on the Debtors' side of the Gaol; and (13) makes void executions under decrees voluntarily suffered with intent to give a preference over other creditors, if executed within three months of the filing of the vesting order, &c.; and (14) makes void conveyances, &c., of property by Insolvent Trader within two months before the vesting order.

15. Empowers the Court to entertain any application, either of Insolvent or Creditors, respecting the disclosure, &c., of the Estate, or anything relating thereto.

16. Empowers the Court to remove Trustees, appoint others, and declare whether acts may be done by all or any of them only.

17, 18. Empowers the Court, on Petition of a certain proportion of the Creditors of any Insolvent who has filed his Petition, to order that his Estate be wound-up under this Act; and (18) empowers Trustees, under Deed of Assignment, to apply to the Court for liberty to wind-up under this Act.

19. Trustees under this Act may make an allowance to the trader for maintenance with sanction of the Court.

20. Entitles the Trustees to such remuneration as the Court shall direct.

21—24. Directs the Trustees to file half-yearly accounts; and when Estate is wound up, and account showing the manner of liquidation, &c.; the filing of which account (22) shall be advertised, and how; and (23) after the filing of such account, and upon notice, &c., the Court may order the discharge of the Insolvent; and (24) the effect of such order shall be to discharge the Trader and all subsequent acquired property from all debts, &c., included in the account of the Trustees.

25. Directs that any applications to the Court under this Act shall be made to a Judge in Chambers, and defines his powers.

26. Confines the operation of this Act to Estates, the admitted liabilities of which are not less than five lakhs of Rupees.

27. Act to come into operation on 1st October, 1865, and remain in force till the 30th September, 1867, but to remain in force after for winding-up Estates already vested in Trustees.

Expired 30th September, 1867.

PLEADERS, MOOKHTARS, AND REVENUE AGENTS ACT, 1865.

ACT No. XXIX. OF 1865.

[*Received the assent of the G. G. on the 22nd Dec.*, 1865.

Recites expediency of amending Act 20, 1865.

1—3. Gives 6 months' further time for admission and enrolment to Pleaders, &c., practising when Act comes into operation; and (2) saves such from operation of enactments respecting stamps; and (3) makes same provision as to Revenue Agents.

4 Authorizes High Court to admit admitted Pleaders to practise in Small Cause Courts.

5. Interpretation Clause; and (6) directs that the Act shall be read as part of Act 20, 1865.

Preamble.

Whereas it is expedient to amend the Pleaders, Mookhtars and Revenue Agents' Acts, 1865 (Act No. XX. of 1865), it is enacted as follows:

Persons qualified as Pleaders or Mookhtars when Act No. XX. of 1865 shall come into operation may continue to practise for six months as if that Act had not been passed.

I. Notwithstanding anything contained in the Pleaders, Mookhtars, and Revenue Agents' Act, 1865, any person who at the time when such Act shall come into operation shall be duly qualified to practise as a Pleader or Mookhtar in any Court in any part of the Territories in

which the said Act shall take effect, shall and lawfully may continue to practise as a Pleader or Mookhtar, as the case may be, in such Court for the period of six calendar months from the time when the said Act shall come into operation in that part of India, without being admitted or enrolled, or having previously obtained a stamped certificate in pursuance of the said Act, in the same manner as if such Act had not been passed.

Fees now payable by any person in respect of his adversary's Pleader to be payable during the six months as if Act XX. of 1865 had not been passed.

II. All fees which are now by law payable upon proceedings in any Court by any party in respect of the fees of his adversary's Pleader shall continue to be payable, and may be allowed during the said period of six calendar months as if the said Act had not been passed.

Persons practising as Revenue Agents when Act No. XX. of 1865 shall come into operation, may continue to practise for six months as if that Act had not been passed.

III. Notwithstanding anything contained in the said Act, any person who at the time when such Act shall come into operation shall practise as an Agent in any proceeding before the Board of Revenue or in any Office subordinate to such Board, in any part of the territories in which the said Act shall take effect, shall and lawfully may continue to practise as an Agent before such Board or in such Office, as the case may be, for the period of six calendar months from the time when the said Act shall come into operation in that part of India without being admitted or enrolled, or having previously obtained a stamped certificate in pursuance of the said Act, in the same manner as if such Act had not been passed.

High Court may permit person entitled, without examination, to a certificate authorizing him to practise as a Pleader in the Courts mentioned in Act No. XX. of 1865, Section 10, Clause (c), to practise in Small Cause Courts.

IV. Whenever the High Court shall cause a certificate, whether original or renewed, authorizing the holder to practise as a Pleader in the Courts mentioned in Clause (*c*) of Section 10 of the said Act, to be issued to a person entitled, under the proviso in Section 5 of the same Act, to be admitted and enrolled as a Pleader in the High Court without passing any examination, the Court may in such certificate authorize the holder to practise as a Pleader in Small Cause Courts in addition to the Courts mentioned in the said Clause (*c*), and he shall thereupon be entitled to practise as last aforesaid, subject to the conditions contained in the said Act as to the duration of

and stamp on a certificate authorizing the holder to practise as a Pleader in the Courts mentioned in the said Clause (*c*).

Interpretation Clause.

V. In the construction of this Act and of the said Act No. XX. of 1865, the expression "Office subordinate to such Board," and in the construction of the latter Act, the expression "Revenue Office," shall be taken to apply to Collectors and Deputy Collectors trying suits under Act No. X. of 1859 (*to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal*).

This Act to be taken as part of Act No. XX. of 1865.

VI. This Act shall be read with and taken as part of "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865."

By Act IX., 1866, the provisions contained in Sections 1 and 2 are extended to Pleaders and Mookhtars of the Sudder Court, North-Western Provinces.

MADRAS IRRIGATION AND CANAL COMPANY.

ACT NO. XXX. OF 1865.

[*Received the assent of the G. G. on the 22nd Dec.*, 1865.

1. Entitles the Madras Irrigation and Canal Company to charge at not exceeding 1 Rupee for 400 cubic yards of water.
2. Act to come into force 1st January, 1866.

Preamble.

Whereas, by an Indenture made on the Third day of June, One thousand eight hundred and sixty-three, between the Secretary of State in Council of the one part, and the Madras Irrigation and Canal Company of the other part, it was amongst other things provided, that the Company should be authorized and empowered to charge such rates for the supply of water generally, except the supply for the purposes of Irrigation, as should not exceed the rates which should "be defined by an Act of Parliament of the Indian Legislature," and should not in any case charge any higher rates whatsoever: and whereas it is expedient to fix the rate which the said Company may charge for the purpose, it is enacted as follows:

I. The Madras Irrigation and Canal Company may charge for the supply of water generally, except the supply for the purposes of Irrigation, a rate not exceeding the sum of one Rupee for four hundred cubic yards of water.

Rate which Company may charge for water supplied for purposes other than Irrigation.

II. This Act shall come into force on the First day of January, 1866.

Commencement of Act.

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1862-65.

ABKAREE REVENUE.

Bengal—

Act to authorize the Governor General in Council to extend the Abkaree Revenue Act to any province, &c., under its immediate administration, 393

Punjab—

Abkaree Revenue Act may be extended to the Punjab, 517, s. 1; and powers under to be vested in what officers, 518, s. 2

ACTS OF THE LEGISLATIVE COUNCIL—*repealed, amended, modified, supplemented, continued, and extended.*

1835 Act 2 (Arracan and Tenasserim) partially repealed by Act 12, 1862

" 13 (Fouzdarry Adawlut) repealed by Act 17, 1862

" 15 (Evidence) repealed by Act 17, 1862

" 17 (Silver Coinage) ss. 1, 2 partially repealed by Act 13, 1865

" 18 (Badges) repealed by Act 17, 1862

" 21 (Coinage) repealed by Act 13, 1862

836 6 (Criminal Law) repealed by Act 17, 1862

" 14 (Customs Duties) repealed by Act 6, 1863

" 20 (Partition) repealed, as respects North-Western Provinces, by Act 19, 1863

" 25 (Customs Duties) repealed by Act 6, 1863

" 27 (Law Officers) repealed by Act 11, 1864

" 30 (Thuggee) repealed by Act 17, 1862

1837 16 (Customs Duties) repealed by Act 6, 1863

" 18 (Thuggee) repealed by Act 17, 1862

" 21 (Oaths and Declarations) s. 4 repealed by Act 17, 1862

" 23 (Principal Sudder Ameens) repealed by Act 17, 1862

" 27 (Salt Duties) s. 12 repealed by Act 17, 1862

ACTS OF THE LEGISLATIVE COUNCIL.—*Continued.*

1837 Act 30 (Persian Language) repealed by Act 17, 1862
" 31 (Coinage) repealed by Act 13, 1862.
" 33 (Mofussil Police) repealed by Act 17, 1862
" 37 (Political Offences) repealed by Act 17, 1862
1838 3 (Cochin) repealed by Act 17, 1862
" 9 (Fines) repealed by Act 17, 1862
" 11 (Partition) s. 19 repealed, as respects North-Western Provinces, by Act 19, 1863
" 26 (Sirsoe) repealed by Act 17, 1862
" 30 (Registration of Assurances) repealed by Act 16, 1864
1839 2 (Distress and Sale) repealed by Act 17, 1862
" 6 (Bank of Bengal) repealed by Act 4, 1862
" 14 (Emigration) repealed by Act 13, 1864
" 18 (Thuggee) repealed by Act 17, 1862
" 19 (Criminal Trials) repealed by Act 17, 1862
1840 1 (Criminal Procedure) repealed by Act 17, 1862
" 4 (Affrays) repealed by Act 17, 1862
" 5 (Oaths) ss. 2, 3 repealed by Act 17, 1862
" 11 (Hard Labour) ss. 2, 3 repealed by Act 17, 1862
1841 6 (Customs Duties) repealed by Act 6, 1863
" 13 (Customs Duties) repealed by Act 6, 1863
" 16 (Oaths of Justices) s. 1 repealed by Act 27, 1864
" 17 (Appeals) s. 2 repealed by Act 17, 1862
" 19 (Curators) s. 20 repealed by Act 8, 1855, and extended to Madras and Bombay by Act 8, 1842
" 21 (Nuisances) repealed by Act 17, 1862
" 23 (Customs Duties) repealed by Act 6, 1863
" 30 (Contempts) repealed by Act 17, 1862
" 31 (Criminal Appeals) repealed by Act 17, 1862
1842 8 (Nomenclature) repealed by Act 17, 1862
" 15 (Emigration) repealed by Act 13, 1864
" 18 (Criminal Law Procedure) repealed by Act 17, 1862
1843 1 (Registration) repealed by Act 16, 1864
" 4 (Appeals from Justices) repealed by Act 17, 1862
" 7 (Law Officers) s. 51 repealed by Act 11, 1864, and as to Provincial Courts, ss. 27, 29 to 34, 36, 37, 41 to 43, 51, 54, 55, 56 repealed by Act 17, 1862
" 14 (Contraband Salt) s. 14 repealed as respects the Nerbudda Territories by Act 7, 1863; ss. 3 to 13 partially extended to the Central Provinces by same Act, and Act extended to Oudh by Act 19, 1862
" 15 (Uncovenanted Agency) as to powers of Deputy-Magistrates and Judicial Officers repealed by Act 17, 1862
" 17 (Official Trustee) repealed by Act 17, 1864

ACTS OF THE LEGISLATIVE COUNCIL.—*Continued.*

1843 Act 18 (Prisoners) repealed by Act 8, 1863
" 19 (Registration) repealed by Act 16, 1864
" 21 (Emigration) repealed by Act 13, 1864
" 24 (Dacoity) repealed by Act 17, 1862
" 25 (Customs Duties) repealed by Act 6, 1863
1844 3 (Corporal Punishment) repealed by Act 17, 1862
" 6 (Customs Duties) ss. 17 to 41, and ss. 46 to 68 repealed by Act 6, 1863
" 14 (Sentences of Transportation) repealed by Act 17, 1862
" 21 (Emigration) repealed by Act 13, 1864
" 22 (Coinage) repealed by Act 12, 1862
1845 2 (Adultery) repealed by Act 17, 1862
" 4 (Registration) repealed by Act 16, 1864
" 5 (Law Officers) repealed by Act 11, 1864
" 10 (Police Procedure) repealed by Act 17, 1862
" 14 (Nazirs) repealed, as respects North-Western Provinces, by Act 11, 1863
" 18 (Life Convicts) repealed by Act 17, 1862
" 25 (Emigration) repealed by Act 13, 1864
" 27 (Assistant Magistrates) repealed by Act 17, 1862
" 30 (Madras Sessions' Judges) repealed by Act 17, 1862
1846 1 (Pleaders) repealed by Act 20, 1865, where that Act extends
" 7 (Diet Money) repealed by Act 17, 1862
1847 5 (Prisoners) repealed by Act 8, 1863
" 8 (Emigration) repealed by Act, 13, 1864
" 10 (Amending Act 10, 1836) repealed by Act 17, 1862
" 13 (Emigration) repealed by Act 13, 1864
" 18 (Registration) repealed by Act 16, 1864
" 20 (Copyright Act) s. 4 repealed by Act 17, 1862
1848 1 (Forgery) repealed by Act 17, 1862
" 3 (Thugs) repealed by Act 17, 1862
" 5 (Mochulkas) repealed by Act 17, 1862
" 6 (Customs Duties) s. 3 repealed by Act 6, 1863
" 7 (Customs Duties) repealed by Act 6, 1863
" 11 (Gangs of Thieves) repealed by Act 17, 1862
" 19 (Criminal Lunatics) repealed by Act 17, 1862
1849 4 (Criminal Sentences) repealed by Act 17, 1862
" 14 (Army and Navy) repealed by Act 17, 1862
1850 7 (Removal of Prisoners) repealed by Act 17, 1862
" 9 (Small Cause Courts) amended by Act 26, 1864
" 10 (Customs Duties) repealed by Act 6, 1863
" 13 (Criminal Breach of Trust) repealed by Act 17, 1862
" 16 (Restitution of Stolen Property) repealed by Act 17, 1862
" 38 (Prisoners' Counsel) repealed by Act 17, 1862

ACTS OF THE LEGISLATIVE COUNCIL.—*Continued.*

1851 Act 4 (Bombay Uncovenanted Deputy-Magistrates) repealed by Act 17, 1862
" 8 (Tolls) schedule repealed and new schedule, Act 15, 1864
" 11 (Registration) repealed by Act 16, 1864
" 16 (Recovery of Stolen Property) repealed by Act 17, 1862
1852 1 (Customs Duties) repealed by Act 6, 1863
" 3 (Spirit Duties, Bombay) s. 11 limited
" 4 (Emigration) repealed by Act 13, 1864
" 5 (Marriage) supplemented by Act 5, 1865
" 16 (Supreme Court, Criminal Procedure) repealed under qualifications by Act 18, 1862
" 18 (Pleaders) repealed by Act 20, 1865, where that Act extends to
" 24 (Emigration) repealed by Act 13, 1864
" 32 (Prosecution of Police Officers) repealed by Act 17, 1862
1853 1 (Madras, Petty Offences) repealed by Act 17, 1862
" 18 (Military Cantonments) repealed as respects Bengal by Act 22, 1864
" 20 (Pleaders) repealed by Act 20, 1865, where that Act extends to
1854 7 (Warrants) partially repealed by Act 17, 1862
" 10 (Assistants to Magistrates) ss. 2, 3 repealed by Act 17, 1862, and s. 1 partially repealed by Act 17, 1862
" 11 (Coinage) repealed by Act 12, 1862
" 12 (Madras District Moonsiffs) repealed by Act 17, 1862
" 18 (Railways) extended by Act 22, 1863
" 21 (Bank of Bengal) repealed by Act 4, 1862
1855 15 (Bombay, Regulation 3, 1833) repealed by Act 17, 1862
" 16 (Badges) repealed by Act 17, 1862
" 19 (Madras District Moonsiffs) s. 5 repealed by Act 17, 1862
" 27 (Bank of Bengal) repealed by Act 4, 1862
" 29 (Customs Duties) repealed by Act 6, 1863
" 31 (Emigration) repealed by Act 13, 1864
" 36 (Contraband Salt) extended, and s. 4 repealed by Act 19, 1862, and ss. 1 to 9 extended to Central Provinces by Act 7, 1864
1856 1 (Obscene Books) repealed by Act 17, 1862
" 2 (Complaints) repealed by Act 17, 1862
" 4 (Malicious Injury to Cattle) repealed by Act 17, 1862
" 17 (Extra Jurisdiction) partially repealed by Act 17, 1862
" 19 (Emigration) repealed by Act 13, 1864
" 27 (Municipal Straits' Settlements) s. 19 repealed by Act 17, 1863
" 29 (Registration) repealed by Act 16, 1864

ACTS OF THE LEGISLATIVE COUNCIL.—*Continued.*

1857 Act 3 (Cattle Trespass) s. 13 partially repealed by Act 17, 1862
" 7 (Madras Uncovenanted Agency) s. 4 repealed by Act 17, 1862
" 11 (Offences against the State) ss. 1, 2 repealed by Act 17, 1862
" 33 (Foreigners) expired, *see note*, 788
1858 1 (Merchant Seamen) ss. 17, 21, 81, 82 repealed by Act 15, 1863; ss. 9 to 16 limited by same Act
" 3 (Registration) ss. 9, 10 repealed by Act 16, 1864
" 7 (Customs Duties) repealed by Act 6, 1863
" 8 (Code of Civil Procedure) ss. 184, 185, 186, 359 suspended as respects the High Court, Calcutta, by Act 20, 1862; amended as respects the constitution of the Appellate Court, when the highest Civil Court consists of only one Judge, by Act 9, 1863; s. 41 modified as respects High Court by Act 18, 1863; ss. 243, 244 extended by Act 14, 1863; s. 368 amended by Act 9, 1863; Chapter VI., as to Arbitrations, extended by Act 14, 1863
" 10 (Rent Act, North-Western Provinces) ss. 18, 23, cl. 3, s. 4 amended by Act 14, 1863; ss. 34, 86 repealed as to North-Western Provinces by same Act; s. 112 amended by same Act; s. 71, as to Pleaders, partially, and s. 149 repealed by Act 20, 1865
" 22 (Customs Duties) s. 3 repealed by Act 6, 1863
" 23 (Customs Duties) repealed by Acts 17 and 25, 1865
" 24 (Madras Police) ss. 22 to 43 repealed, and the Schedule partially, by Act 17, 1862
1860 3 (Sentences of Sessions' Judges) repealed by Act 17, 1862
" 10 (Customs Duties) ss. 3, 4 repealed by Act 6, 1863
" 12 (Emigration) repealed by Act 13, 1864
" 17 (Escape from Gaol) s. 11 repealed by Act 17, 1862
" 23 (Abkaree Revenue, Bengal) s. 2 and Custom House Bond repealed by Act 6, 1863
" 27 (Successions) repealed with qualifications by Act 24, 1867
" 31 (Arms Act) continued by Act 6, 1865
" 32 (Income Tax) expired 1st August, 1865
" 33 (Emigration) repealed by Act 13, 1864
" 35 (Transportation) repealed by Act 17, 1862
" 36 (Stamp Duties) repealed by Act 10, 1862
" 39 (Income Tax) expired 1st August, 1865
" 40 (Stamp Duties) repealed by Act 10, 1862
" 41 (Emigration) repealed by Act 13, 1864
" 42 (Small Cause Courts) repealed by Act 11, 1865, and references in it to be considered as included in Act 11, 1865

ACTS OF THE LEGISLATIVE COUNCIL.—*Continued.*

1860 Act 45 (Indian Penal Code) supplemented by Act 6, 1864
" 46 (Emigration to French Colonies) amended by Act 7, 1862
" 48 (Police Force) s. 3 repealed as to Straits' Settlements by Act 3, 1863
" 49 (Emigration) repealed by Act 13, 1864
" 51 (Stamp Duties) repealed by Act 10, 1860
1861 12 (Small Cause Courts) repealed by Act 11, 1865
" 18 (Duties on Trades) repealed by Act 2, 1862
" 22 (Cattle Trespass) ss. 1 to 5 repealed by Act 17, 1862
" 24 (Presidency Banks) supplemented by Act 29, 1863
" 25 (Code of Criminal Procedure) ss. 62, 63, 308 to 314 extended to Calcutta by Act 21, 1864
" 28 (Merchant Seamen) repealed by Act 15, 1863
" 29 (Articles of War) amended by Act 5, 1863; and Article 83 repealed by Act 26, 1865
1862 1 (Foreigners) expired, 1
" 4 (Bank of Bengal) amended by Act 6, 1862
" 9 (Income Tax) expired with the Tax
" 10 (Stamp Duties) extended to Straits' Settlements by Act 28, 1863; s. 33 repealed, and *Art.* 11, Schedule B amended by Act 18, 1865; High Court, N. W. Provinces, taken out of the exception of s. 30 by Act 26, 1867, s. 2; Schedule B superseded by Act 26, 1867; Stamp Duties in Schedule B extended to Appellate side of High Court, &c., by Act 20, 1862
" 11 (Customs Duties) repealed, *see note*, 79
" 14 (Limitation of Suits) obsolete, 84
" 16 (Income Tax) expired with the Tax, 85
" 18 (Criminal Law, Supreme Courts) ss. 47 to 52 repealed by Act 25, 1863, as respects Bengal; and generally repealed by Act 12, 1865, and Act 12, 1867
" 19 (Salt) s. 2 extended to the Central Provinces by Act 7, 1864
" 20 (Fees and Stamps) continued by Act 24, 1862, *et see note*, 123; and by Act 32, 1863
" 21 (Medical Officers' Widows) obsolete, 121
" 22 (Emigration) repealed by Act 13, 1864
" 23 (Customs Duties) superseded, *see note*, 122
1863 1 (Civil Procedure, Burmah) amended by Act 24, 1863
" 4 (Burmah Treaty) supplemented by Act 12, 1864
" 7 (Emigration) repealed by Act 13, 1864
" 10 (Darjeeling) repealed by Act 19, 1867
" 16 (Registration) repealed by Act 20, 1866
" 18 (Oaths) s. 4 partially explained by Act 18, 1863, and other part of Act obsolete, 275, *see note*

ACTS OF THE LEGISLATIVE COUNCIL.—*Continued.*

1863 Act 21 (Recorders' Courts, Burmah) supplemented by Act 3, 1866
" 25 (Presidency Gaols) repealed by Act 12, 1867
" 26 (Customs Duties) repealed, *see note*, 350
" 27 (Income Tax) expired, 350
" 30 (Oudh Commissioners) obsolete, 355
1864 4 (Kurrachee Small Cause Courts) obsolete, 376
" 5 (Code of Civil Procedure, Scinde) obsolete, *ib.*
" 13 (Emigration) repealed by Act 13, 1864
" 14 (Judge of Konkan) obsolete, 433
" 16 (Registration of Assurances) ss. 25, 40 repealed by Act 9 1865, and repealed generally by Act 20, 1866
" 18 (Lucknow Municipal Committee) s. 21 repealed by Act 22, 1865
" 23 (Customs Duties) repealed by Act 17, 1865, *see note*, 495
" 24 (Jhansi, &c.) s. 1 abrogated by Act 18, 1867
" 25 (Marriage Law) repealed by Act 5, 1865, extended by Act 22, 1866, to Hyderabad, &c.
1865 2 (Rural Police, North-Western Provinces) s. 2 amended by Act 2, 1866
" 4 (Administrator General's Act) repealed by Act 24, 1867
" 6 (Arms Act) repealed by Act 6, 1866
" 12 (Prisoners, Calcutta) repealed by Act 12, 1867
" 13 (High Courts Criminal Procedure) s. 22 amended, *see note*, 701
" 14 (Central Provinces Courts Act) supplemented, *see note*, 716
" 17 (Customs Duties) repealed by Act 25, 1865
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" 25 (Customs Duties) repealed, *see note*, 786
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" " 9 (Criminal Procedure) ss. 4 to 12, 14 to 18, 23, 26, 27, 29, 47 to 51, 53, 54, 56 to 58, 61, 64, 65, 74, 75, 77 and 78, repealed by Act 17, 1862, under qualifications *

" " 12 (Law Officers) repealed by Act 11, 1864

" " 13 (Appointment of Criminal Officers) ss. 9, 11 repealed by Act 17, 1862.

* NOTE.—All the repeals by Act 17, 1862, are under qualifications.

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1793, Regulation 22 (Police) ss. 10, 16, 22, 31, 32 to 34, and 38 repealed by ditto
" " 36 (Registration of Deeds) repealed by Act 16, 1864
" " 39 (Law Officers) repealed by Act 11, 1864
1794, " 7 (Criminal Trials) repealed by Act 17, 1862
1795, " 8 (Law Officers) s. 3, as respects Law Officers, repealed by Act 11, 1864
" " 11 (Law Officers) repealed by ditto
" " 16 (Criminal Trials) s. 4, c. 1 partially, and 2, 4, 5, and all the following sections, repealed by Act 17, 1862
" " 17 (Police) ss. 10, 20, 29 to 32, and 35 repealed by ditto
" " 21 (Criminal Law) repealed by ditto
" " 28 (Registration) repealed by Act 16, 1864
" " 49 (Head Cazee) repealed by Act 11, 1864
1796, " 2 (European British Subjects) repealed by Act 17, 1862
" " 9 (Prisoner's Witnesses) repealed by ditto
" " 11 (Criminal Procedure) repealed by ditto
1797, " 2 (Responsibility of Landholders) s. 3 repealed by ditto
" " 4 (Criminal Procedure) repealed by ditto
" " 13 (Powers of Magistracy) repealed by ditto
" " 14 (Nizamut Adawlut) repealed by ditto
1798, " 2 (Law Officers) s. 4 repealed by Act 11, 1864
" " 8 (Law Holidays) repealed by Act 17, 1862
1799, " 2 (Goal Deliveries) repealed by ditto
" " 4 (State Prisoners) repealed by ditto
" " 8 (Mahomedan Law) repealed by ditto
" " 10 (Procedure) repealed by ditto
1801, " 3 (Perjury) repealed by ditto
" " 8 (Mahomedan Law) repealed by ditto
1802, " 6 (Child Sacrifice) repealed by ditto
1803, " 3 (Law Officers) repealed by Act 11, 1864
" " 6 (Procedure) except ss. 3, 34 repealed by ditto
" " 7 (Courts of Circuit) from s. 5 to 41 repealed by Act 17, 1862
" " 8 (Nizamut Adawlut) except ss. 6, 24, and 26 repealed by ditto
" " 11 (Law Officers) repealed by Act 11, 1864
" " 12 (Appointment of Officers) ss. 12, 14 repealed by Act 17, 1862
" " 17 (Registration) s. 17 partially repealed by Act 16, 1864

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1803, Regulation 20 (State Prisoners) repealed by Act 17, 1862
" " 35 (Police) s. 3, cls. 3, 4, 5, and s. 10 repealed by ditto
" " 46 (Law Officers) repealed by Act 11, 1864
" " 50 (Criminal Courts) repealed by Act 17, 1862
" " 53 (Punishments) repealed by ditto
1804, " 3 (Criminal Law) repealed by ditto
" " 4 (Criminal Justice) s. 7 the proviso of, repealed by ditto
" " 9 (Courts of Circuit) partially repealed by ditto
1805, " 3 (Punishment) repealed by ditto
" " 7 (Ceded Provinces) s. 14 repealed by ditto
" " 12 (Registration) s. 32 repealed by Act 16, 1864
1806, " 1 (Jurisdiction) ss. 6 to 9 repealed by Act 17, 1862
" " 10 (Public Officers) s. 10, so far as it relates to Native Law Officers, repealed by Act 11, 1864
" " 12 (Jurisdiction) partially repealed by Act 17, 1862
" " 15 (European British Subjects) repealed by ditto
1807, " 2 (Perjury) repealed by ditto
" " 9 (Police) repealed by ditto
" " 14 (Police) 5, 11, cl. 7 to 11 and 12, ss. 20, 21, repealed by ditto
1808, " 8 (Punishment) repealed by ditto
1809, " 3 (Police, Military Cantonments) repealed by Act 22, 1864
" " 8 (Native Officers) ss. 3, 4 repealed by Act 11, 1864
1810, " 1 (Futwar) repealed by Act 17, 1862
" " 6 (Responsibility of Landowners) ss. 3 to 5 repealed by ditto
" " 9 (Customs Management) repealed by Act 6, 1864
" " 14 (Pardon and Punishment) repealed by Act 17, 1862
" " 19 (Religious Endowments) repealed by Act 20, 1863
" " 20 (Military Cantonments) s. 12 partially, and ss. 13 to 18, 21 repealed by Act 22, 1864
1811, " 1 (Punishment) repealed, except part of s. 10, by Act 17, 1862
" " 7 (Police) repealed by ditto
" " 9 (Partition of Estate) as respects North-Western Provinces repealed by Act 19, 1863
" " 10 (Slavery) s. 3 repealed by Act 17, 1862
" " 11 (Partition of Estates) as respects North-Western Provinces repealed by Act 19, 1863
" " 14 (Punishment) repealed by Act 17, 1862
1812, " 3 (Criminal Procedure) ss. 2, 3, 6, 12, and 4 partially, repealed by ditto
" " 20 (Registration) repealed by Act 16, 1864

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1813, Regulation 7 (Ceded Provinces) s. 3 repealed by Act 17, 1862
" " 9 (Punishment) repealed by ditto
1814, " 6 (Customs Management) repealed by Act 6, 1863
" " 8 (Murder) s. 2 partially repealed by Act 17, 1862
" " 11 (Procedure) repealed by Act 17, 1862
" " 14 (Vakeels and Native Pleaders) repealed by Act 20, 1865
" " 15 (Procedure) repealed by Act 17, 1862
" " 19 (Partitions) as respects North-Western Provinces repealed by Act 19, 1863
" " 26 (Process-Serving) s. 14, as to North-Western Provinces, repealed by Act 11, 1863
1816, " 14 (Gaols) ss. 9, 15 repealed by Act 17, 1862
" " 17 (Police) s. 8, cls. 3, 4 repealed by ditto
1817, " 17 (Procedure) repealed by Act 17, 1862
" " 18 (Law Officers) ss. 1, 2, 4, 6, so far as relates to Law Officers, repealed by Act 11, 1864
" " 20 (Police) s. 6, cls. 3 and 4, s. 8, cls. 5, 6, 7, ss. 9, 12 to 20, 22 to 26 repealed by Act 17, 1862
" " 21 (Customs Management) repealed by Act 6, 1863
1818, " 6 (Punishment) repealed by Act 17, 1862
" " 8 (Mochulkas) repealed by ditto
" " 12 (House-breaking) repealed by ditto
1819, " 3 (Robbery) repealed by ditto
" " 7 (Jurisdiction) repealed by ditto
1820, " 4 (Jurisdiction) repealed by ditto
" " 7 (Sitting Dhurna) repealed by ditto
1821, " 3 (Procedure) repealed by ditto
1822, " 1 (Procedure) repealed by ditto
" " 4 (Procedure) repealed by ditto
" " 7 (Revenue Settlement, Cuttack) s. 25 repealed by Act 20, 1865
" " 8 (Jurisdiction) repealed by Act 17, 1862
1823, " 2 (Affrays) repealed by ditto
" " 4 (Jurisdiction) repealed by ditto
1824, " 4 (Registration) repealed by Act 16, 1864
" " 6 (Procedure) repealed by Act 17, 1862
" " 10 (Pardons) repealed by ditto
1825, " 1 (Procedure) repealed by ditto
" " 4 (Mochulkas) repealed by ditto
" " 9 (Revenue Settlements) s. 5, cl. 9 partially repealed by Act 20, 1865
" " 12 (Jurisdiction) repealed by Act 17, 1862
" " 15 (Customs Management) repealed by Act 6, 1863

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1825, Regulation 16 (Jurisdiction) repealed by Act 17, 1862
1826, „ 11 (Law Officers) ss. 1 to 4 repealed by Act 11, 1864
1826, „ 1 (Sentences) repealed by Act 17, 1862
„ „ 6 (Affrays) repealed by ditto
„ „ 8 (Affrays) repealed by ditto
1829, „ 3 (Law Officers) s. 7 repealed by Act 11, 1864
„ „ 6 (Jurisdiction) repealed by Act 17, 1862
„ „ 7 (Procedure) repealed by ditto
„ „ 12 (Jurisdiction) repealed by ditto
„ „ 15 (Customs' Management) repealed by Act 6, 1863
„ „ 17 (Suttee) ss. 4, 5 repealed by Act 17, 1862
1830, „ 3 (Customs Management) repealed by Act 6, 1863
„ „ 4 (Procedure) repealed by Act 17, 1862
„ „ 8 (Procedure) repealed by ditto
1831, „ 6 (Judges) ss. 12, 13 repealed by ditto
„ „ 7 (Jurisdiction) ss. 5, 6, and 7 partially repealed by ditto
„ „ 9 (Sudder Courts) ss. 3, 4 repealed by ditto
1832, „ 2 (Police) ss. 2, 3 repealed by ditto
„ „ 3 (Slavery) s. 2, cl. 2 repealed by ditto
„ „ 6 (Assessors) ss. 4, 5, 6 repealed by ditto
„ „ 7 (Registration) s. 4 repealed by Act 16, 1864
1833, „ 6 (Customs Management) repealed by Act 6, 1863
„ „ 9 (Rural Police, North-West Provinces) ss. 12 to 15 repealed by Act 2, 1865
1834, „ 2 (Punishment) repealed, except s. 7, by Act 17, 1862

Bombay—

1827, „ 2 (Courts of Justice) s. 36 repealed by Act 17, 1862, and s. 34, cls. 2, 3, and s. 35 repealed by Act 11, 1864
„ „ 4 (Procedure) s. 34, cl. 4, ss. 52, 54, 55 repealed by Act 17, 1862
„ „ 9 (Registration) repealed by Act 16, 1864
„ „ 11 (Jurisdiction) repealed by Act 17, 1862
„ „ 12 (Police) repealed, except as stated (*see* p. 95), by ditto
„ „ 13 (Jurisdiction) repealed, partially, as stated (*see* p. 95), by ditto
„ „ 14 (Criminal Law) repealed, except s. 3, cl. 2, and ss. 20, 28, by ditto
„ „ 15 (Zemindary Police) repealed by ditto
„ „ 23 (Miscellaneous) repealed by ditto
„ „ 26 (Cases) repealed by Act 11, 1864
„ „ 30 (Poonah and Ahmedabad) repealed by Act 17, 1862
1828, „ 13 (Registration) repealed by Act 16, 1864
„ „ 17 (Punishments) repealed by Act 17, 1862
1829, „ 2 (Articles of War) repealed by Act 5, 1863

REGULATIONS.—*Continued*

1830, Regulation 3 (Jurisdiction) repealed, except ss. 2, 4, 6, 7, by Act 17, 1862
" " 4 (Jurisdiction) repealed, except s. 1 cl. 1, and s. 2 by ditto
" 12 (Stamps) repealed by ditto
" " 16 (Self-Immolation) repealed by ditto
" " 19 (Joint Session Judge) repealed by ditto
1831, " 5 (Escape) repealed by ditto
" " 8 (Jurisdiction) repealed, except s. 1, by ditto
" " 9 (Responsibility of Landowners) repealed by ditto
1833, " 3 (Police) repealed by ditto
" " 7 (Trials) repealed by ditto
" " 8 (Circuits) repealed by ditto
" " 9 Convicts in Native States) repealed by Act 8, 1863
" " 22 (Articles of War) ss. 1 to 17, and s. 28 except ss. 3, 7 partially, and Chapter 6, repealed by Act 5, 1863

Madras—

1802, " 3 (Jurisdiction) s. 8 repealed by Act 17, 1862
" " 4 (Provincial Courts) s. 20 repealed by ditto
" " 7 (Circuit Courts) repealed by Act 17, 1862
" " 8 (Fouzdary Court) ss. 8 to 11, and 13 to 18, 20, 21, 23 to 25 repealed by ditto
" " 9 (Law Officers) s. 8 repealed by ditto
" " 11 (Law Officers) repealed by Act 11, 1864
" " 12 (Officers) ss. 12 to 14 repealed by ditto
" " 17 (Registration) repealed by Act 16, 1864
1803, " 15 (Punishments) repealed by Act 17, 1862
1808, " 3 (Law Officers) repealed by Act 11, 1864
1810, " 1 (Criminal Law) repealed by Act 17, 1862
" " 19 (Religious Endowments) repealed by Act 20, 1863
1811, " 6 (Perjury) repealed by Act 17, 1862
1816, " 6 (Native Commissioners) s. 49 repealed by ditto
" " 9 (Zillah Magistrate) except ss. 2 to 5, and No. 1, 2, of Appendix, repealed by ditto
" " 10 (Zillah Courts) repealed, except ss. 40 and Appendix, by ditto
" " 11 (Police) repealed, except ss. 8 to 10, 11, ss. 1, 13, 14, 47, by ditto (*see* Act 36, 1867)
1817, " 3 (Jurisdiction) s. 2 repealed by ditto
" " 7 (Religious Endowments) repealed by Act 20, 1863
1818, " 1 (Procedure) repealed by Act 17, 1862
1819, " 3 (Punishments) repealed by ditto
" " 5 (Government Servants) repealed by ditto

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1821, Regulation 4 (Police) repealed, except s. 6, by Act 17, 1862
1822, ,, 2 (Procedure) repealed by ditto
,, ,, 6 (Jurisdiction) repealed by ditto
,, ,, 7 (Cases) s. 3, cl. 2 repealed by Act 11, 1864
1824, ,, 1 (Procedure) repealed by Act 17, 1862
1825, ,, 1 (Procedure) repealed by ditto
1826, ,, 3 (Perjury) repealed by ditto
1827, ,, 2 (Jurisdiction) s. 3 repealed by ditto
,, ,, 3 (Procedure) repealed by ditto
,, ,, 6 (Criminal Law) repealed by ditto
,, ,, 8 (Jurisdiction) repealed, as stated, by ditto
,, ,, 10 (Jury Trial) repealed by ditto
1828, ,, 3 (Law Officers) repealed by Act 11, 1864
,, ,, 8 (Corporal Punishment) repealed by Act 17, 1862
,, ,, 9 (Reports) repealed by ditto
,, ,, 13 (Registration) repealed by Act 16, 1864
1829, ,, 6 (Procedure) repealed by Act 17, 1862
,, ,, 8 (Criminal Law) s. 5 repealed by ditto
1830, ,, 2 (Corporal Punishment) repealed by ditto
1831, ,, 2 (Jurisdiction) repealed by ditto
,, ,, 3 (Procedure) repealed by ditto
,, ,, 11 (Registration) repealed by Act 16, 1864
1832, ,, 8 (Sudder Courts) repealed by ditto
,, ,, 9 (Criminal Law) repealed by ditto
,, ,, 13 (Procedure) repealed by ditto
1833, ,, 2 (Corporal Punishment) repealed by ditto
,, ,, 3 (Jurisdiction) s. 2 repealed by ditto
1834, ,, 1 (Punishments) repealed by ditto

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END OF VOL. IV.

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